

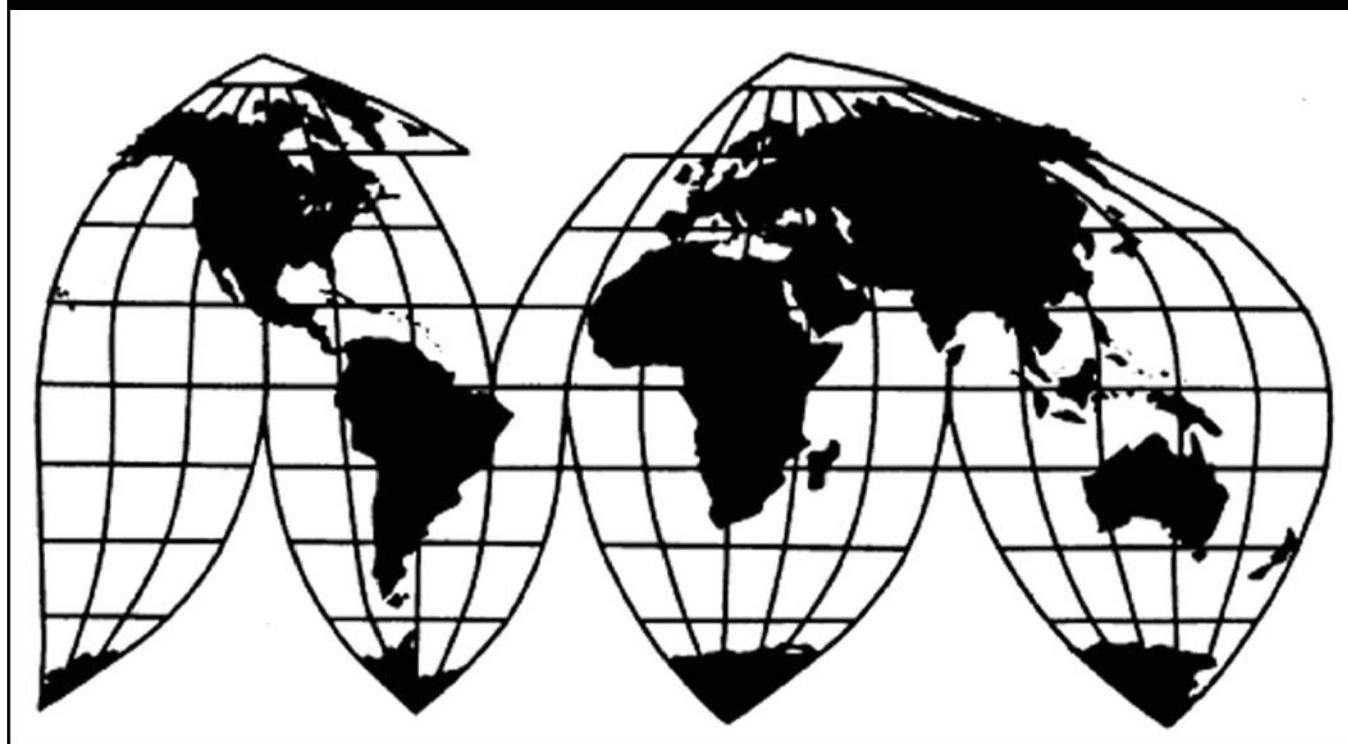
Seamless Refined Copper Pipe and Tube from China and Mexico

Investigation Nos. 731-TA-1174-1175 (Final)

Publication 4193

November 2010

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1174-1175 (Final)

SEAMLESS REFINED COPPER PIPE AND TUBE FROM CHINA AND MEXICO

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is threatened with material injury^{2 3 4} by reason of imports of seamless refined copper pipe and tube (“SRC pipe and tube”) from China and Mexico provided for in subheadings 7411.10.10 and 8415.90.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).

BACKGROUND

The Commission instituted these investigations effective on September 30, 2009, following receipt of a petition filed with the Commission and Commerce by Cerro Flow Products, Inc., St. Louis, MO; Kobe Wieland Copper Products, LLC, Pine Hall, NC; Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc., Memphis, TN. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of SRC pipe and tube from China and Mexico were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission’s investigations 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 11, 2010 (75 FR 33330). The hearing was held in Washington, DC, on September 23, 2010, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Chairman Deanna Tanner Okun, Vice Chairman Irving A. Williamson, Commissioner Daniel R. Pearson, and Commissioner Shara L. Aranoff determine that they would not have found material injury but for the suspension of liquidation.

³ Commissioner Charlotte R. Lane determines that the domestic SRC pipe and tube industry is materially injured by reason of imports of the subject merchandise from China and Mexico.

⁴ Commissioner Dean A. Pinkert did not participate in these investigations.

VIEWS OF THE COMMISSION

Based on the record in the final phase of these investigations, we determine that an industry in the United States is threatened with material injury by reason of imports of seamless refined copper pipe and tube from China and Mexico that the U.S. Department of Commerce (“Commerce”) has found to be sold in the United States at less than fair value.^{1 2}

I. BACKGROUND

The petition in these investigations was filed on September 30, 2009, by domestic producers Cerro Flow Products, Inc. (“Cerro”), St. Louis, Missouri; Kobe Wieland Copper Products, LLC, (“Kobe Wieland”), Pine Hall, North Carolina; Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc., (“Mueller”), Memphis, Tennessee (collectively, “petitioners”). Petitioners appeared at the hearing and filed joint prehearing and posthearing briefs.

Respondents that participated at the hearing and filed prehearing and posthearing briefs include Golden Dragon Precise Copper Tube Group Inc., GD Affiliates S. de R.L. de C.V., and GD Copper (U.S.A.) Inc., a Chinese producer, a Mexican producer, and a U.S. importer of subject merchandise, respectively (collectively, “Golden Dragon”); IUSA, S.A. de C.V. (“IUSA”) and Nacional de Cobre, S.A. de C.V. (“Nacobre”), Mexican producers of subject merchandise;³ and Johnson Controls, Inc. (“Johnson”) and Marubeni American Corporation (“Marubeni”), importers of subject merchandise.

Joint prehearing and posthearing briefs were filed by Luvata Alltop (Zhongshan), Luvata Tube (Zhongshan) Ltd., Luvata Monterrey S. de R.L. de C.V., foreign producers of subject merchandise, and Luvata Franklin, Inc. and Luvata Grenada LLC, importers of subject merchandise (collectively, “Luvata”). A posthearing brief was filed by Wolverine Tube, Inc. (“Wolverine”) a domestic producer and an importer and purchaser of subject merchandise.

The Commission received questionnaire responses from 14 domestic producers of seamless refined copper pipe and tube (hereinafter, “SRC pipe and tube”). These producers accounted for 95 percent of U.S. production of SRC pipe and tube in 2009.⁴

Importer data in the Report are based primarily on official Commerce import statistics.⁵ The Commission, however, received questionnaires responses from 42 importers, which accounted for 83.7 percent of subject imports from China, 106.5 percent of subject imports from Mexico, and 56.2 percent of nonsubject imports in 2009.⁶

The Commission received foreign producer questionnaire responses from eight producers or exporters of Chinese SRC pipe and tube, which are believed to account for *** Chinese export shipments

¹ Commissioner Lane determines that the domestic industry is materially injured by reason of the subject imports from China and Mexico. She joins in parts I through IV.B.1. of these Views. She also joins in part V, Legal Framework, and part VI, Conditions of Competition. She writes separately concerning Material Injury By Reason of Subject Imports. See Separate Views of Commissioner Charlotte R. Lane.

² Commissioner Dean A. Pinkert is not participating in the final phase of these investigations.

³ The appearance of IUSA and Nacobre at the hearing and their posthearing brief were also on behalf of their U.S. affiliates, Cambridge-Lee Industries LLC and Copper and Brass International.

⁴ CR at I-4, PR at I-3; CR/PR at III-1.

⁵ CR at I-4, PR at I-3.

⁶ CR at I-4, PR at I-3; CR/PR at IV-1. Imports for China and Mexico based on questionnaire data appear at CR/PR at Table C-2.

to the United States in 2009.⁷ The Commission received foreign producer questionnaire responses from five producers or exporters of Mexican SRC pipe and tube, believed to account for *** Mexican export shipments to the United States in 2009.⁸ The Commission received purchaser questionnaire responses from 44 firms.⁹

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”¹⁰ 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.”¹¹ 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.”¹²

The decision regarding the appropriate domestic like product(s) 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.¹³ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹⁴ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹⁵ Although the Commission must accept the determination of the U.S. Department of Commerce

⁷ CR at VII-3, PR at VII-2.

⁸ CR at VII-6, PR at VII-5.

⁹ CR at II-2, PR at II-1.

¹⁰ 19 U.S.C. § 1677(4)(A).

¹¹ 19 U.S.C. § 1677(4)(A).

¹² 19 U.S.C. § 1677(10).

¹³ 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).

¹⁴ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹⁵ Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow 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.”).

(“Commerce”) as to the scope of the imported merchandise subsidized or sold at less than fair value,¹⁶ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁷

B. Product Description

Commerce has defined the scope of these investigations as follows:
Seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter (“OD”), regardless of wall thickness, bore (e.g., smooth, enhanced with inner-grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled bent, wound on spools). The scope covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (“ASTM”) ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-B359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope of these investigations are all sets of covered products, including “line sets” of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase “all sets of covered products” denotes any combination of items put up for sale that is comprised of merchandise subject to the scope. “Refined copper” is defined as: (1) metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits

<u>ELEMENT</u>	<u>LIMITING CONTENT PERCENT BY WEIGHT</u>
Ag - Silver	0.25
As - Arsenic	0.5
Cd - Cadmium	1.3
Cr - Chromium	1.4
Mg - Magnesium	0.8
Pb - Lead	1.5
S - Sulfur	0.7
Sn - Tin	0.8
Te - Tellurium	0.8
Zn - Zinc	1.0

¹⁶ 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).

¹⁷ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (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 Commission determination of six like products in investigations where Commerce found five classes or kinds).

Zr - Zirconium	0.3
Other elements (each)	0.3

Excluded from the scope of these investigations are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length.¹⁸

SRC pipe and tube are fabricated products of high-purity copper, distinguished by a circular cross section of varying nominal sizes (typically 0.04"–12") and wall thicknesses. The inner and outer tubing surfaces are either smooth or enhanced (e.g., with grooves, ridges, fins, or gills). Additional characteristics can include outer surface coatings (e.g., paint, plastics, or other coating materials) for corrosion protection or insulation; marking with paint or plastic color coding for product identification; cleaning, pressurizing with nitrogen gas, and capping of each end to assure interior cleanliness; end finishes (e.g., plain, swaged, flared, expanded, crimped, or threaded); and attachments (e.g., plain, capped, or plugged). SRC pipe and tube is available in straight lengths, bent to shape, coiled flat without spools ("pancake coils"), or coiled onto spools. "Line sets" consist of a smaller-diameter liquid line (commonly with end finishes) and a larger-diameter suction line (commonly insulated), which typically are used to connect outdoor air conditioners and heat pumps with indoor evaporator units.¹⁹

End-use applications for SRC pipe and tube take advantage of copper's strength, malleability, ductility, thermal conductivity, resistance to corrosion and fouling, and chemical purity. SRC pipe and tube applications generally involve fluids under pressure, either for conveyance or closed-loop thermal transfer. Conveyance applications include residential, commercial, institutional, industrial, and municipal water systems, as well as distribution systems for other liquids and gasses. Thermal transfer applications include residential, commercial, institutional, and industrial heating systems; commercial refrigeration systems; and combined or split-unit air-conditioning systems.²⁰

"Plumbing" (or "standard") tubing is commonly produced to various standards of the American Society for Testing and Materials ("ASTM"). The ASTM designations specify the chemical composition, outside diameter, wall thickness, strength, hardness, cleanliness, roundness, marking, and other requirements for SRC pipe and tube, based on end-use applications.²¹

"Industrial" (or "commercial") tubing is produced to either industry standard (e.g., ASTM) specifications or customer (including original equipment manufacturer ("OEM")) nonstandard specifications, including any surface enhancements (e.g., grooves, ridges, fins, or gills) designed to enhance thermal transfer capabilities. For example, customer specifications are often based on ASTM standards to which are added further requirements such as custom dimensions, temper, or packaging. Common applications for commercial SRC pipe and tube include refrigeration and heating units; split-system central, room and window, central, and vehicle air conditioners; and chillers and freezers.²²

SRC pipe and tube production involves three stages: (1) prefabricating, which includes melting, casting, and either extrusion or rolling of rough tubing; (2) intermediate fabrication, consisting of cold drawing of unfinished tubing; and (3) finishing of the SRC pipe and tube.²³

¹⁸ CR at I-5-6, PR at I-5. The products subject to these investigations are currently classifiable under statistical reporting numbers 7411.10.1030, 7411.10.1090 of the Harmonized Tariff Schedule of the United States (HTSUS), and may also enter under HTSUS statistical reporting numbers 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. *Id.*

¹⁹ CR at I-7-8, PR at I-6.

²⁰ CR at I-8, PR at I-6-7.

²¹ CR at I-8, PR at I-7.

²² CR at I-8-9, PR at I-7.

²³ CR at I-12, PR at I-10.

C. Preliminary Phase Determination

In the preliminary phase of these investigations, the domestic industry requested that the Commission define a single domestic like product, coextensive with Commerce's scope. No party opposed that definition. The Commission found that plumbing and commercial tube possessed both similarities and differences with respect to physical characteristics and uses, there was some degree of interchangeability between plumbing and commercial tube, as well as some similarities in terms of the channels through which they were traded, and some commonality of manufacturing facilities and employees. The Commission also observed that, although plumbing and commercial tube were sold under different price structures, the record did not indicate whether or to what extent those structural differences resulted in actual price differences between plumbing and commercial tube. Based on these similarities, and in the absence of clear dividing lines between plumbing and commercial SRC pipe and tube, the Commission found a single domestic like product, consisting of all SRC pipe and tube, that was coterminous with the scope.

In the final phase of these investigations, petitioners argue that the Commission should again find one domestic like product comprised of all SRC pipe, that is coextensive with Commerce's scope.²⁴ Importers Marubeni and Johnson contend that the Commission should define plumbing SRC pipe and tube and industrial SRC pipe and tube as separate domestic like products.²⁵ Although IUSA, Nacobre, Luvata, and Goodman do not disagree with the Commission's finding of a single domestic like product, they identify the distinction between plumbing and commercial tube as a relevant condition of competition in the SRC pipe and tube market, and rely in that regard upon the factors the Commission traditionally considers in defining the domestic like product.²⁶

D. Domestic Like Product Factors

1. Physical Characteristics and Uses

Parties' Arguments. Petitioners assert that all SRC tubes share the same basic physical characteristics and uses in that all SRC tubes are seamless products, they have circular cross sections, they consist entirely or virtually entirely of refined copper, and they are commonly used to transport fluids, either in conveyance applications or in closed loops for thermal transfer. They contend that, although plumbing pipe and tube is generally produced to ASTM specifications and industrial pipe and tube to the specification of OEMs, ASTM standards also apply in some respects to industrial pipe and tube, and the differences between SRC pipe and tubes in plumbing and industrial application can be minimal.²⁷ They assert that fabrication prior to finishing is similar for plumbing and industrial pipe and tube, that plumbing pipe and tube often meets the same degree of purity (percentage of copper cathode) required for industrial pipe, and that certain plumbing tube (e.g., OXY/MED and ARC products) are cleaned and capped, as is industrial pipe and tube.²⁸

²⁴ Petition at 35-36, Petitioners Postconference Brief at 9-15.

²⁵ Johnson/Marubeni Prehearing Brief at 1.

²⁶ IUSA and Nacobre Prehearing Brief at 6-10, Luvata Prehearing Brief at 6-17, Goodman Prehearing Brief at 2-5. Although we do not set out here those arguments of these parties, we have taken them into account in our domestic like product analysis.

²⁷ Petitioners Prehearing Brief at 13-15.

²⁸ Hearing Transcript at 66 (Arndt), 264 (Levy). Cleaning and capping means the pipe or tube is filled with pure nitrogen to displace oxygen and prevent corrosion and then capped to prevent escape of the nitrogen. See, e.g., Johnson/Marubeni Posthearing Brief at 3. OXY/MED and ARC products are cleaned and capped to ensure

continue...

Johnson and Marubeni argue that, unlike industrial pipe and tube, plumbing pipe and tube does not have to meet the copper purity requirements of ASTM standard B743 or the 1,832 pounds per square inch burst pressure requirement. They also assert that all industrial pipe and tube must be cleaned and capped and that the plumbing products petitioners identify as cleaned and capped either are not plumbing products or account for a small segment of the plumbing pipe and tube market.²⁹

Analysis. All SRC pipe and tube share certain basic physical characteristics, including being seamless, made of refined copper, and having a circular cross section. All SRC pipe and tube are used to transport or circulate fluids.³⁰ Substantial similarities generally exist between the physical characteristics of SRC pipe and tube up to the finishing steps of production, although finishing steps may differ.³¹ The record indicates, therefore, that specifications for SRC pipe and tube used in plumbing applications and SRC pipe and tube used in industrial applications can differ, with plumbing pipe and tube conforming to ASTM standards and industrial pipe and tube conforming to individual OEMs' specifications or ASTM standards.³² Pipe and tube meeting certain ASTM standards (*e.g.*, ASTM designations B-280, B-903, Type K, Type L, Type M, DWV, and ARC/RST) is designated for use in industrial applications (*i.e.*, in conjunction with heating, ventilation, air conditioning and refrigeration systems), but some may also be used in plumbing applications.^{33 34} Accordingly, there are similarities in the physical characteristics and uses of plumbing and industrial pipe and tube.

2. Interchangeability

Parties' Arguments. Petitioners argue that interchangeability between plumbing and industrial tube is indicated by the fact that OEM specifications can mirror ASTM specifications or can be stated in terms of ASTM specifications with adjustments or additions. They claim that, whether an article is being

²⁸ ...continue

contaminant-free transportation of oxygen, other gases, and refrigerants. Field notes (July 30, 2010) at 2. at 2.

²⁹ Johnson/Marubeni Posthearing Brief at 3-4.

³⁰ CR at I-7-8, PR at I-6.

³¹ CR at I-12-20, PR at I-10-14.

³² CR at I-8, PR at I-6.

³³ See CR/PR at Tables I-1, I-2.

³⁴ In their claims regarding copper purity and burst pressure requirements for industrial pipe and tube, Johnson and Marubeni do not argue that plumbing pipe and tube does not often, or could not, also meet those purity and pressure requirements. Rather, they simply state that lower purity copper could be used in producing plumbing pipe and tube, not that it actually is used. Johnson/Marubeni Posthearing Brief at 3-4. The record identifies steps for removal of impurities during the molten copper stage of production, without distinguishing between industrial and plumbing pipe and tube. CR at I-12-13, PR at I-10. Johnson and Marubeni do not indicate that plumbing tube would not meet the same burst pressure requirements that can be made explicit for industrial SRC pipe and tube (although it appears that the pressures to which pipe and tube employed in industrial (*e.g.*, HVAC applications) are far greater than those in plumbing applications). Rather, they state simply that burst pressure requirements do not apply to plumbing pipe and tube. Johnson/Marubeni Posthearing Brief at 3-4. Additionally, at the hearing, the significance of whether burst pressure requirements were met was raised primarily in comparing the seamless product with the nonsubject welded product. Johnson explained that it switched from welded to seamless product to avoid the seam-splitting under pressure to which welded pipe and tube were more prone. Thus, the testimony may have been more concerned with welded product being more prone to burst under pressure than the seamless product, rather than that plumbing pipe and tube was more prone to burst under pressure than industrial pipe and tube. See Hearing Transcript at 163-64 (Smith). Accordingly, we find that the record does not support the claim of significant physical differences between industrial and plumbing SRC pipe and tube in terms of copper purity and burst pressure characteristics.

produced for a plumbing or an industrial application, the manufacturer's primary focus is on the outside diameter (OD) of the article. The difference in the processes, they assert, can be as simple as cutting the finished product to a cut length for plumbing pipe and tube or turning it into a level wound coil for the industrial article.³⁵ The absence of a clear dividing line between industrial and plumbing pipe and tube is highlighted, petitioners contend, by the fact that six of the Commission's eight pricing products were sold by domestic producers for both plumbing and industrial applications.³⁶

Johnson and Marubeni argue that plumbing pipe and tube and industrial pipe and tube are not interchangeable. They contend, for instance, that plumbing codes require pipe and tube used in plumbing applications to have plumbing-specific ASTM markings. They argue, therefore, that contrary to petitioners' claim, even in the instances in which industrial pipe or tube meet specifications for plumbing applications, the pipe or tube cannot simply be used in a plumbing application, at least not without the addition of the necessary ASTM markings.³⁷

Analysis. The record indicates that there is at least some interchangeability between plumbing pipe and tube and industrial pipe and tube. Requirements for industrial pipe and tube may include ASTM standards, including the same ASTM standards applicable to plumbing tube, and they sometimes mirror ASTM standards or reflect ASTM standards plus other elements.³⁸ The same product may be sold as either plumbing or industrial pipe and tube, although ASTM markings may be necessary when otherwise identical industrial product is sold in the plumbing market.³⁹

3. Channels of distribution

Parties' Arguments. Petitioners argue that there is overlap in channels of distribution between plumbing and industrial pipe and tube, even though plumbing pipe and tube is generally sold to distributors, wholesalers, and retailers, whereas industrial pipe and tube is generally sold to OEMs. They contend that whether plumbing or industrial pipe and tube is sold through distributors or directly to OEMs is really a question of the size of the end user.⁴⁰

Johnson and Marubeni argue that domestic producers generally sell SRC pipe and tube for plumbing applications to wholesalers, distributors, and retailers and generally sell industrial pipe and tube to OEMs. They claim that producers have separate marketing teams for the sale of plumbing and industrial SRC pipe and tube and that, to the extent OEMs purchase from distributors rather than directly from producers, the quantities involved likely are small.⁴¹

Analysis. All parties agree that domestic producers generally sell SRC pipe and tube for plumbing applications to wholesalers, distributors and retailers and that they generally sell industrial pipe and tube to OEMs. It appears, however, that both distributors and SRC pipe and tube mills sell tube conforming to ASTM designations (e.g., Type K, Type L, Type M, DWV, and ARC/RST) to OEMs and that the channel of distribution can be based on the volume of SRC pipe and tube being purchased.⁴² Accordingly, there appears to be overlap between the channels through which plumbing and industrial pipe and tube are sold.

³⁵ Petitioners' Posthearing Brief, Appendix A at 35-36; Hearing Tr. (Arndt) at 36-37.

³⁶ Petitioners Prehearing Brief at 15-16, Petitioners' Posthearing Brief at 13 (citing Prehearing Report at V-24).

³⁷ Johnson/Marubeni Posthearing Brief at 4-5.

³⁸ See CR/PR at Tables I-1, I-2; Petitioners' Posthearing Brief, Appendix A at 35-36; Hearing Tr. (Arndt) at 36-37.

³⁹ Petitioners Prehearing Brief at 15-16, Johnson/Marubeni Posthearing Brief at 4-5.

⁴⁰ Petitioners Prehearing Brief at 16-18.

⁴¹ Johnson/Marubeni Posthearing Brief at 5-6.

⁴² Petitioners Postconference Brief at 12.

4. Common Manufacturing Facilities, Production Processes, and Production Employees

Parties' Arguments. Petitioners claim that U.S. producers manufacture SRC pipe and tube in the same production facilities, using common production processes and production employees. ***.⁴³ They assert that production of all SRC tube begins with a prefabrication stage in which raw copper material is melted then formed, by either a high-ratio extrusion or a cast-and-roll method, into a so-called "mother tube." The mother tube then undergoes an intermediate, cold drawing, step. Cold drawing is followed by a combination of finishing steps, as applicable. Petitioners assert that the cast and roll method or the extrusion method can be used to produce either plumbing or industrial pipe and tube. They assert that Kobe Wieland and Cerro produce both plumbing and commercial tube, and Kobe Wieland produces both plumbing and commercial tube on the same production line at its Pine Hall, North Carolina facility.⁴⁴

Johnson and Marubeni argue that the cast and roll method is more commonly used for production of industrial pipe and tube and the extrusion method is more commonly used for production of plumbing pipe and tube. They contend that the greatest distinctions in the production process for plumbing and industrial pipe occur at the finishing stage, which, in the case of the industrial product but not the plumbing product, can include steps such as stretching, annealing, winding, and rifling to create an inner groove product.⁴⁵

Analysis. Although either the cast and roll or extrusion methods can be used, the initial stages of production are the same whether the ultimate product will be a plumbing or an industrial pipe and tube product.⁴⁶ Therefore, they can be produced in the same facilities with the same processes, and production employees. Although some producers confine their production to either plumbing pipe and tube or industrial pipe and tube, certain producers produce both plumbing and industrial tube in the same facility with the same employees. Thus, there is some degree of shared facilities, processes, and employees in the production of plumbing and industrial pipe and tube.

5. Producer and Customer Perceptions

Parties' Arguments. Petitioners assert that, overall, customers perceive SRC tube as a single product, with a broad mix of variations across a continuum. They contend that, although some OEM customers may perceive industrial tube meeting their custom specifications as distinct from plumbing tube meeting standard ASTM specifications, these differences are minor from the perspective of SRC pipe and tube producers.⁴⁷ They argue that the absence of a clear dividing line in the perception of market participants is indicated also by the apparently differing perceptions of importers and purchasers as to what constitutes plumbing versus industrial pipe and tube. This is indicated, they contend, by the small volume of plumbing pipe and tube from China that importers reported importing compared with the considerably larger volume of plumbing pipe and tube from China that purchasers reported purchasing.⁴⁸

Johnson and Marubeni argue that, because the purchasers, channels of distribution, technical specification for plumbing and industrial pipe and tube are completely different, and because plumbing

⁴³ Petitioners Posthearing Brief at A-2.

⁴⁴ Petitioners' Prehearing Brief at 19-20.

⁴⁵ Johnson/Marubeni Prehearing Brief at 5, Johnson/Marubeni Posthearing Brief at 6.

⁴⁶ E.g., CR at I-15-16, I-18; PR at I-12, I-13.

⁴⁷ Petitioners Prehearing Brief at 12.

⁴⁸ Petitioners Posthearing Brief, Appendix A at 36.

and industrial pipe and tube are not interchangeable, customers do not perceive plumbing and industrial pipe and tube to be similar.⁴⁹

Analysis. Although producers and customers may view plumbing and industrial SRC pipe and tube as falling to some extent on a continuum, the record indicates that market participants also perceive a distinction.⁵⁰

6. Price

Parties' Arguments. Petitioners acknowledge dual pricing structures for plumbing and commercial tube, with plumbing tube typically sold on the spot market at a discount off list prices and industrial pipe and tube sold at the contemporaneous COMEX price of copper plus a negotiated per-pound fabrication charge fixed for 12 months. They assert, however, that the differing pricing structures do not result in prices for plumbing or industrial tube necessarily being higher or lower than the other. The absence of a clear price distinction is confirmed, they claim, by the varying responses of producers and importers regarding the relative pricing levels of plumbing and industrial pipe and tube.⁵¹

Johnson and Marubeni generally agree with petitioners' description of the differing approaches for setting prices in the sale of plumbing and industrial pipe and tube and argue that these pricing mechanisms, therefore, are not comparable.⁵²

Analysis. It is uncontested that plumbing and industrial tube are typically sold under different price structures. Plumbing pipe and tube is typically sold on the spot market at a discount off price lists published by producers, whereas industrial pipe and tube is typically sold at the contemporaneous COMEX price of copper plus a negotiated per-pound fabrication charge that is fixed for a 12-month period. Three U.S. producers, ***, report selling industrial pipe and tube on a spot basis.⁵³ It appears that, notwithstanding the different pricing structures, prices for SRC pipe and tube overall may fall generally on a continuum of prices determined primarily by the prevailing market price for copper, variations in finishing costs, and relative demand for different SRC pipe and tube products.⁵⁴ We note, moreover, that prices for the pricing products that are generally used in plumbing applications and those generally used in industrial applications⁵⁵ generally followed similar trends over the period for which quarterly pricing data were obtained in these investigations.⁵⁶

7. Conclusion

The record indicates that plumbing and industrial pipe and tube possess at least some similarities with respect to physical characteristics and uses, regardless of their manner of production. There is, moreover, some interchangeability between plumbing and industrial pipe and tube, as well as some similarities in terms of the channels through which they are traded, and some commonality of manufacturing facilities and employees. Although plumbing and industrial pipe and tube are sold under different price structures, we are not able to conclude that those structural differences result in actual price

⁴⁹ Johnson/Marubeni Prehearing Brief at 6.

⁵⁰ E.g., CR/PR at Appendix F.

⁵¹ Petitioners Prehearing Brief at 20-21.

⁵² Johnson/Marubeni Prehearing Brief at 7.

⁵³ CR at V-2-3, PR at V-2.

⁵⁴ Petitioners Prehearing Brief at 14.

⁵⁵ Pricing products 1-4 were generally used in plumbing applications and products 5-8 were generally used in industrial applications. CR at V-25, PR at V-12.

⁵⁶ CR/PR at Figure V-2.

differences between plumbing and industrial pipe and tube with similar characteristics. Therefore, we conclude, on the basis of the current record, that there is not a clear dividing line between plumbing and industrial pipe and tube. We note, moreover, that most respondent parties do not disagree with the Commission's finding a single domestic like product in the preliminary phase of these investigations.

Accordingly, we find one domestic like product, coterminous with the scope, consisting of all SRC pipe and tube.

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."⁵⁷ 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. Based on our definition of the domestic like product, we define the domestic industry as all domestic producers of SRC pipe and tube.

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) 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 which are themselves importers.⁵⁸ Exclusion of such producers is within the Commission's discretion based upon the facts presented in each investigation. In these investigations, several domestic producers may be related parties based on their relationship to exporters of the subject merchandise, importations of subject imports, or purchases of subject imports.⁵⁹ No party, however, has argued for exclusion of any producer as a related party.

Wolverine ***.⁶⁰ Although Wolverine is a related party, we find that appropriate circumstances do not exist to exclude it from the domestic industry. The ***.⁶¹ Thus, ***⁶²***.⁶³ Wolverine reports ***⁶⁴ and also states that the importation of subject merchandise from foreign producers ***.⁶⁵ Wolverine, however, has been a substantial domestic producer throughout the period of investigation; it

⁵⁷ 19 U.S.C. § 1677(4)(A).

⁵⁸ 19 U.S.C. § 1677(4)(B).

⁵⁹ The Commission has concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where the domestic producers were responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial. See, e.g., Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (April 1999); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (April 1997).

⁶⁰ Wolverine's ***. CR/PR at Table III-7. ***. Wolverine would be a related party based on its *** percent interest in the Chinese producer and exporter Wolverine Tube (Shanghai), if it were in a position to exercise direct or indirect control over Wolverine Tube (Shanghai). CR/PR at Table III-1. The record does not reflect, however, that Wolverine is in a position to exercise direct or indirect control over Wolverine Tube (Shanghai).

⁶¹ CR/PR at Table III-7.

⁶² ***. Wolverine Posthearing Brief at 2.

⁶³ CR/PR at Table III-7.

⁶⁴ CR/PR at Table III-7 n.7.

⁶⁵ Wolverine Posthearing Brief at 2, see also CR at III-4-5.

accounted for *** percent of domestic production in 2009, and was the *** largest producer in that year.⁶⁶ Its interests appear to vary between domestic production or importation at different times during the period of investigation.⁶⁷ Wolverine ***.⁶⁸ Wolverine *** in view of its *** operating performance. Its operating income as a ratio of net sales was *** the industry average ***.⁶⁹ ⁷⁰ Therefore, we do not find appropriate circumstances to exclude Wolverine from the domestic industry.

Cambridge-Lee is wholly owned by IUSA, a Mexican producer and exporter of SRC pipe and tube and, therefore, Cambridge-Lee is a related party.⁷¹ ***.⁷² We find, however, that appropriate circumstances do not exist to exclude Cambridge-Lee from the domestic industry. ***.⁷³ ***.⁷⁴ Moreover, Cambridge Lee accounted for *** percent of domestic production in 2009 and is, thus, the *** domestic producer.⁷⁵ Additionally, Cambridge-Lee *** in view of its *** operating performance for most of the period. Its operating income as a ratio of net sales was *** the industry average from 2007 to 2008 and in interim 2010, and *** the average *** in 2009.⁷⁶ Accordingly, we find, on balance, that circumstances are not appropriate to exclude Cambridge-Lee from the domestic industry.

Seven other domestic producers are or may be related parties. ***.⁷⁷ ***.⁷⁸ ***.⁷⁹ Kobe Wieland is *** percent owned by Wieland-Werke, a German firm, which, in turn, owns an interest in the Chinese exporter Wolverine Tube (Shanghai).⁸⁰ Mueller is an equity participant in the joint venture Jiangsu Mueller-Xingrong Copper, a Chinese exporter.⁸¹ Precision Tube is a sister company of Mueller, which, as noted above, has an ownership interest in the Chinese exporter Jiangsu Mueller-Xingrong Copper.⁸²

It is clear that *** are related parties by virtue of their importation of subject merchandise. The other four producers also may be related parties by virtue of corporate relationships to, or purchases of, subject merchandise. We need not resolve, however, the question of whether all of these seven producers are related parties because we would not find appropriate circumstances exist to exclude any of them from the domestic industry.

⁶⁶ CR/PR at Table III-1.

⁶⁷ ***. CR at III-10, PR at III-6 n.15.

⁶⁸ Wolverine Posthearing Brief at 3-4.

⁶⁹ CR/PR at Table VI-2.

⁷⁰ In these investigations, Commissioner Aranoff does not rely on individual company operating income margins in assessing whether particular related parties benefit from importation of subject merchandise. Rather, she has based her determination regarding whether to exclude related parties principally on their ratios of subject imports to domestic shipments and on whether their primary interests lie in domestic production or importation. She finds that appropriate circumstances do not exist to exclude any company.

⁷¹ CR/PR at Table III-1.

⁷² CR/PR at Table III-7.

⁷³ CR/PR at Table III-7.

⁷⁴ CR/PR at Table III-7.

⁷⁵ CR/PR at Table III-1.

⁷⁶ CR/PR at Table VI-2.

⁷⁷ CR/PR at Table III-7.

⁷⁸ CR/PR at Table III-7.

⁷⁹ CR/PR at Table III-7. ***. CR/PR at Table III-1, IV-1. ***. CR/PR at Table III-7.

⁸⁰ CR/PR at Table III-1, III-3. Kobe Wieland ***. CR/PR at Table III-7.

⁸¹ CR/PR at Table III-1.

⁸² CR/PR at Table III-1.

*** each accounted for a very small percentage of domestic production.⁸³ Thus, neither inclusion nor exclusion of their individual data would skew the industry data. Moreover, to the extent they imported or purchased subject imports, their imports or purchases were small relative to their production.⁸⁴ Accordingly, their interests appear to be those of domestic producers. Moreover, they do not appear to have derived a significant benefit from their potential related party status. *** operating income as a ratio of net sales was below the industry average throughout the period of investigation, and the ratios for *** were below the industry average for a majority of the period of investigation.⁸⁵

*** Mueller nor Kobe Wieland ***.⁸⁶ Moreover, Kobe Wieland ***. Additionally, these producers ***. Kobe Wieland's operating income as a ratio of net sales was *** the industry average ***. Although the financial performance of Mueller ***,⁸⁷ there is no indication that this *** resulted from its potential related party status. Mueller and Kobe Wieland are also petitioners, further indicating that their interests are those of domestic producers notwithstanding their potential related party status. Finally, purchases were equivalent to only *** percent of Howell's production in *** and it ***.⁸⁸ Moreover, Howell *** the petition.⁸⁹

For the reasons stated above, we find that appropriate circumstances do not exist to exclude any domestic producer from the domestic industry. We therefore define the domestic industry to include all domestic producers of SRC pipe and tube.

IV. CUMULATION

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise 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 products in the U.S. market.⁹⁰ In assessing whether subject imports compete with each other and with the domestic like product,⁹¹ the Commission has generally considered the following four factors:

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

⁸³ Precision Tube accounted for *** percent of domestic production in 2009, Packless for *** percent, and *** for *** percent, and Elkhart for *** percent. CR/PR at Table III-1.

⁸⁴ CR/PR at Table III-7. ***. Id.

⁸⁵ CR/PR at Table VI-2.

⁸⁶ CR/PR at Table III-7. Mueller accounted for *** percent of total domestic production in 2008, and Kobe Wieland accounted for *** percent. CR/PR at Table III-1. Id.

⁸⁷ CR/PR at Table VI-2

⁸⁸ CR/PR at Table III-7.

⁸⁹ CR/PR at Table III-1.

⁹⁰ 19 U.S.C. § 1677(7)(G)(i).

⁹¹ The SAA 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." SAA, H.R. Rep. 103-316, vol. I at 848 (1994), citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

- (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
- (4) whether the subject imports are simultaneously present in the market.⁹²

Although 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.⁹³ Only a “reasonable overlap” of competition is required.⁹⁴

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Tariff Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation are satisfied.⁹⁵ In addition to considering the four cumulation factors described above, the Commission has considered other factors such as the similarity of the volume trends and pricing data of subject imports from countries under investigation.⁹⁶

A. Parties’ Arguments

Petitioners contend that the Commission should cumulate subject imports from China and Mexico as there is a reasonable overlap of competition. They assert that the domestic like product and subject imports from China and Mexico are fungible, that the geographic overlap and simultaneous presence requirement are satisfied, and that the domestic like product and subject imports from China and Mexico are sold through the same channels of distribution.⁹⁷

IUSA and Nacobre contend that these investigations are concerned solely with threat of material injury and, therefore, they limit their cumulation arguments to the Commission’s threat analysis. They argue, in the context of cumulation for purposes of threat of material injury, that the subject imports are not substantially fungible because the SRC pipe and tube from China are concentrated in industrial pipe and tube and the SRC pipe and tube from Mexico is concentrated in plumbing pipe and tube. They also contend that plumbing and industrial pipe and tube are generally sold through different channels of

⁹² 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) at 8 n.29, aff’d sub nom. Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

⁹³ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁹⁴ See Goss Graphic System, 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”); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

⁹⁵ 19 U.S.C. § 1677(7)(H).

⁹⁶ See Torrington Co. v. United States, 790 F.Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallwerken Nederland B.V. v. United States, 728 F.Supp. 730, 741-42 (Ct. Int’l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F.Supp. 1068, 1072 (Ct. Int’l Trade 1988).

⁹⁷ Petitioners Prehearing Brief at 37-40.

distribution and are priced differently.⁹⁸ These arguments are also relevant to the Commission's present material injury cumulation analysis.

Specific to whether the Commission should exercise its discretion to cumulate subject imports if it reaches the issue of whether a domestic industry is threatened with material injury by reason of subject imports, IUSA and Nacobre argue that subject imports from Mexico must be assessed independently of those from China in a threat analysis. They argue essentially that the volume and pricing trends for subject imports from China and Mexico are separate and distinct.^{99 100}

B. Analysis

1. Cumulation for Material Injury

In these investigations, the threshold criterion for cumulation is satisfied because the petitioners filed the antidumping duty petitions with respect to China and Mexico on the same day. None of the cumulation exceptions applies. Subject imports from China and Mexico are therefore eligible for cumulation. We consequently examine whether there is a reasonable overlap of competition between subject imports from China and Mexico, as well as among subject imports and the domestic like product.

Fungibility.¹⁰¹ There appears to be a moderate to high degree of fungibility with respect to the subject imports from China and Mexico as well as with respect to the subject imports from each source and the domestic like product.¹⁰² The questionnaire responses indicate that market participants perceive domestic SRC pipe and tube and subject imports to be interchangeable. A majority of responding domestic producers, importers, and purchasers reported that the domestic product is always or frequently interchangeable with the subject imports from each subject source and that the Chinese and Mexican SRC pipe and tube are interchangeable with each other.¹⁰³

The available data suggest that, notwithstanding the greater focus of the imports from Mexico on plumbing tube and the greater focus of imports from China on industrial pipe and tube, the subject imports from both China and Mexico include both plumbing and industrial pipe and tube to some degree. We note, moreover, as discussed with respect to conditions of competition, *infra*, that the share of subject imports from Mexico consisting of industrial pipe and tube has increased late in the period examined. Also, as discussed in the context of the volume of subject imports, *infra*, it does not appear that interchangeability is affected in any significant degree by the extent to which subject merchandise or the domestic like product is produced by the extrusion method as opposed to the cast and roll method.

⁹⁸ IUSA and Nacobre Prehearing Brief at 38-40.

⁹⁹ IUSA and Nacobre Posthearing Brief at 40-41.

¹⁰⁰ Luvata argues that its imports of subject merchandise should be disregarded because they displaced nonsubject welded copper pipe and tube rather than sales of the domestic like product. Luvata Posthearing Brief at 3-5. Consistent with the statute, however, we include all subject imports among the cumulated imports and cumulatively assess their volume and their impact on the U.S. industry as a whole. In short, the statute does not provide for assessment of the impact of the imports of individual importers separately from the impact of the cumulated subject imports.

¹⁰¹ Commissioner Lane notes that, with respect to fungibility, her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required, and she notes that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Invs. Nos. 701-TA-451 and 731-TA-1126 to 1128 (Prelim.), USITC Pub. 3964 (Nov. 2007).

¹⁰² CR at II-24-25, PR at II-17-18.

¹⁰³ CR/PR at Table II-4.

Geographic Overlap. All responding domestic producers reported that they serve a nationwide market.¹⁰⁴ Official Commerce statistics show that the largest ports of entry for both the Chinese and the Mexican imports were in Texas, with more than one-half the subject imports from China entering at Houston-Galveston and Dallas-Fort Worth and a large majority of the subject imports from Mexico entering the port at Laredo.¹⁰⁵ Moreover, 11 of 33 importers reported that they serve a nationwide market.¹⁰⁶ Thus, although some importers sell subject imports from China or Mexico only to a limited number of geographic regions, in the aggregate, importers sell subject imports to all geographic regions within the continental United States.¹⁰⁷ Accordingly, the record indicates that there was significant geographic overlap between the subject imports from China and Mexico and between subject imports and the domestic like product.

Channels of Distribution. U.S. producers' shipments and shipments of subject imports from China and Mexico all included shipments to both distributors and end users. Over the period examined, shipments of the domestic like product to distributors accounted for between 56 and 61 percent of total shipments and shipments to end users accounted for between 39 and 44 percent. Subject imports from China ranged between 5 and 57 percent to distributors and between 43 and 95 percent to end users. Subject imports from Mexico, on the other hand, ranged between 25 percent and 84 percent to distributors and between 16 and 75 percent to end users.¹⁰⁸ Accordingly, imports from each subject source and the domestic like product overlap in channels of distribution sufficiently to support cumulation.

Simultaneous Presence. Official import statistics show that subject imports from China and those from Mexico have each been present in the U.S. market in each month of the period of investigation.¹⁰⁹

Conclusion. Although it appears that there may be limited fungibility between plumbing and industrial pipe and tube, channel of distribution data indicate that both plumbing and industrial pipe and tube were included among the shipments of domestic pipe and tube, subject imports from China, and subject imports from Mexico. We find that the tube type and channel of distribution overlaps between the subject imports from China and Mexico are sufficient to support cumulation. Accordingly, on these bases, and because there is geographic overlap and simultaneous presence, we find that there is a reasonable overlap of competition between subject imports from China and Mexico and among subject imports and the domestic like product. Therefore, we cumulatively assess the volume and effects of subject imports from China and Mexico for purposes of determining whether the domestic industry is materially injured by reason of the subject imports.

2. Cumulation for Threat of Material Injury

Having found a reasonable overlap of competition, we consider other factors to determine whether to exercise our discretion to cumulate subject imports from China and Mexico for purposes of assessing whether an industry in the United States is threatened with material injury by reason of subject imports. The volume of subject imports from Mexico declined by 5.1 percent between 2007 and 2009, while the volume of subject imports from China increased by 22.6 percent. In market share terms, subject imports from Mexico increased somewhat from 7.6 percent in 2007 to 8.3 percent in 2008, before declining to 6.9 percent in 2009. The market share of subject imports from China increased from 9.1

¹⁰⁴ CR/PR at II-1.

¹⁰⁵ CR/PR at Tables IV-4, IV-5.

¹⁰⁶ CR/PR at II-1.

¹⁰⁷ CR at II-1-2, PR at II-1.

¹⁰⁸ CR/PR at Table II-1.

¹⁰⁹ CR/PR at Table IV-6.

percent in 2007 to 12.9 percent in 2008, before increasing further to 13.2 percent in 2009. A greater convergence in the market share trends for subject imports from China in Mexico appears in the interim period. The volume of subject imports from Mexico in interim 2010 was 45.2 percent lower than the volume reported in interim 2009. The volume of subject imports from China was 41.8 percent lower in interim 2010 than in interim 2009.¹¹⁰

Regarding the pricing data, subject imports from each country at times undersold the domestic like product, with subject imports from Mexico underselling somewhat more frequently than did subject imports from China. Subject imports from Mexico undersold the domestic like product in 53 of 90 quarterly comparisons, while subject imports from China primary oversold – underselling in only 43 of 91 instances.¹¹¹

While the industry in Mexico is significantly smaller than the industry in China, it has been undergoing significant expansion.¹¹² Both industries rely on export markets to absorb a significant share of shipments.¹¹³ The industry in Mexico is closely intertwined with both the U.S. industry and the industry in China. All of the reported capacity expansions in Mexico have been undertaken by producers with related parties in the U.S. (Luvata) or in China (Golden Dragon).¹¹⁴

Regarding the type of SRC pipe and tube that is exported from the subject countries, we have defined a single domestic like product consisting of all SRC pipe and tube. Respondents IUSA, Nacobre, Cambridge-Lee, and Copper and Brass International argue that subject imports should not be cumulated because Mexico supplied principally plumbing tube whereas China supplied predominantly industrial tube.¹¹⁵ While the record shows that imports from China were mostly industrial pipe and tube and those from Mexico were mostly for plumbing applications, there was significant and growing overlap in the product types exported to the United States from China and Mexico. Importers reported sales of imports from China of seven of eight pricing products for industrial applications and five of eight for plumbing applications. Importers reported sales of imports of four products from Mexico for plumbing applications and four products for industrial applications.¹¹⁶ Finally, capacity expansions in Mexico are for the production of industrial SRC pipe and tube.¹¹⁷ These expansions will lead to increased overlap in subject import product types.

Based on the record in these investigations, on balance we find sufficient evidence to exercise our discretion to consider the impact of subject imports cumulatively in our threat analysis.

V. LEGAL STANDARDS

A. In General

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material

¹¹⁰ CR/PR at Table C-1.

¹¹¹ CR/PR at Table V-10.

¹¹² CR at VII-7, PR at VII-6.

¹¹³ CR /PR at Tables VII-1, VII-4.

¹¹⁴ CR at VII-7, PR at VII-6.

¹¹⁵ IUSA and Nacobre Posthearing Brief at 8.

¹¹⁶ CR at V-25-26, PR at V-12.

¹¹⁷ CR at VII-7, PR at VII-5-6; CR/PR at Table VII-5. As noted above, moreover, the share of total imports from Mexico consisting of industrial SRC pipe and tube had already increased substantially in 2009 and interim 2010. CR/PR at Tables E-3, E-4.

injury by reason of the imports under investigation.¹¹⁸ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.¹¹⁹ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹²⁰ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.¹²¹ 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.”¹²²

Although the statute requires the Commission to determine whether the domestic industry is “materially injured or threatened with material injury by reason of” unfairly traded imports,¹²³ it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.¹²⁴ In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.¹²⁵

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.¹²⁶ In performing its examination, however, the Commission need not

¹¹⁸ 19 U.S.C. §§ 1671d(b), 1673d(b).

¹¹⁹ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each {such} factor ... and explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

¹²⁰ 19 U.S.C. § 1677(7)(A).

¹²¹ 19 U.S.C. § 1677(7)(C)(iii).

¹²² 19 U.S.C. § 1677(7)(C)(iii).

¹²³ 19 U.S.C. §§ 1671d(a), 1673d(a).

¹²⁴ Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), aff’d, 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

¹²⁵ The Federal Circuit, in addressing the causation standard of the statute, observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred “by reason of” the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

¹²⁶ SAA at 851-52 (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47

continue...

isolate the injury caused by other factors from injury caused by unfairly traded imports.¹²⁷ Nor does the “by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.¹²⁸ It is clear that the existence of injury caused by other factors does not compel a negative determination.¹²⁹

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”¹³⁰ Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”¹³¹

The Federal Circuit’s decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject

¹²⁶ ...continue

(1979) (“in examining the overall injury being experienced (by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, 542 F.3d at 877.

¹²⁷ SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Invs. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

¹²⁸ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

¹²⁹ See Nippon Steel Corp., 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

¹³⁰ Mittal Steel, 542 F.3d at 877-78; see also id. at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

¹³¹ Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

imports.¹³² The additional “replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission’s interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record” to “show that the harm occurred ‘by reason of’ the LTFV imports,” and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.¹³³ Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.^{134 135}

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.¹³⁶ Congress has delegated this factual finding to the Commission because of the agency’s institutional expertise in resolving injury issues.¹³⁷

B. Material Injury by Reason of Subject Imports

In evaluating the 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.”¹³⁸

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

¹³² Mittal Steel, 542 F.3d at 875-79.

¹³³ Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

¹³⁴ Commissioner Lane refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Invs. Nos. 731-TA-1131 to 1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

¹³⁵ To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission’s causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

¹³⁶ We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

¹³⁷ Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 (“The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.”).

¹³⁸ 19 U.S.C. § 1677(7)(C)(i).

(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.¹³⁹

In examining the impact of subject imports, section 771(7)(C)(iii) of the Tariff Act provides that the Commission “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”¹⁴⁰ These factors include output, sales, inventories, ability to raise capital, 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.”¹⁴¹

C. Threat of Material Injury by Reason of Subject Imports

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing 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.”¹⁴² The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole” in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.¹⁴³ In making our determination, we consider all statutory threat factors that are relevant to this investigation.¹⁴⁴

¹³⁹ 19 U.S.C. § 1677(7)(C)(ii).

¹⁴⁰ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, 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 industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”).

¹⁴¹ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

¹⁴² 19 U.S.C. § 1677(7)(F)(ii).

¹⁴³ 19 U.S.C. § 1677(7)(F)(ii).

¹⁴⁴ These factors are as follows:

(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,

continue...

VI. CONDITIONS OF COMPETITION

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

A. Production Processes

The technology used in the production of SRC pipe and tube in the United States, China, and Mexico has been evolving over the past 20 years. The most common method for producing SRC pipe and tube historically has been the extrusion method, in which hollow billets are cast from molten copper. The billets are later reheated and converted into rough tubes using an extrusion process. A more recent development is the continuous horizontal cast and roll (“cast and roll”) process, which uses fewer steps by eliminating the billet reheating and extrusion steps.¹⁴⁵

The cast and roll process was developed by Outokumpu (now Luvata) in October 1989. The patent expired in March 2008. The cast and roll process was introduced in China in February 1991, when China National Technical Import and Export Corporation (now Golden Dragon) obtained licences from Outokumpu that initially limited the process to a single facility in Xiangxiang. Golden Dragon obtained additional licenses in April 2001, for production on a new cast and roll line through March 2003, and in December 2004 for lines in three Golden Dragon facilities. It also was granted permission to ship its product under these licenses to market destinations worldwide.¹⁴⁶

¹⁴⁴ ...continue

(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,

(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.

* * *

(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).

19 U.S.C. § 1677(7)(F)(i). To organize our analysis, we discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to our material injury analysis. Statutory threat factors (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the price effects analysis, and statutory threat factor (IX) is discussed in the impact analysis. Statutory threat factors (I) is inapplicable as these investigations do not include a countervailing duty investigation, and factor (VII) is inapplicable as no imports of agricultural products are involved in this investigation. No argument was made that the domestic industry is currently engaging or will imminently engage in any efforts to develop a derivative or more advanced version of the domestic like product, which would implicate statutory threat factor (VIII).

¹⁴⁵ CR at I-12-15, PR at I-11.

¹⁴⁶ CR at I-17-18, PR at I-13; Golden Dragon Posthearing Brief at R-18.

In the United States, ***.¹⁴⁷

***.¹⁴⁸ Mexican producer IUSA initiated construction of a cast and roll facility in 2007 and started production trials in 2008 with equipment manufactured by Danieli & Kalamari rather than by Outokompu.¹⁴⁹

Although respondent parties contend that the cast and roll method results in a better seamless product than the extrusion method, petitioners contend that they can and do consistently meet purchasers' specification for both industrial and plumbing SRC pipe and tube by using the cast and roll or extrusion processes interchangeably.¹⁵⁰

B. Demand Conditions

SRC pipe and tube is principally used in plumbing, refrigeration, and air conditioning systems. Demand for SRC pipe and tube, therefore, is largely derived from residential construction, commercial construction, and the market for air conditioning and refrigeration units. Most producers, importers, and purchasers agree that demand for SRC pipe and tube in the United States declined over the period examined. They also note that demand declined with increased substitution of plastic (known as PVC and PEX) in plumbing applications, and aluminium and stainless steel pipe and tube in industrial applications, in the place of SRC pipe and tube.¹⁵¹ Plastic pipe and tube is easier to install than SRC pipe and tube and its substitution for the subject product has had a long term impact on demand for SRC pipe and tube. While aluminum and stainless steel pipe and tube are less desirable than SRC pipe and tube in industrial applications owing to their lower heat transfer efficiencies, OEMs have been willing to substitute aluminum pipe and tube in response to high copper prices in recent years.¹⁵²

When measured by apparent domestic consumption, U.S. demand declined over the period examined from 992.5 million pounds in 2007 to 698.0 million pounds in 2009, a 29.7 percent decline, and

¹⁴⁷ CR at I-17, PR at I-13.

¹⁴⁸ CR at I-17, PR at I-13.

¹⁴⁹ Hearing Transcript at 257-258 (Ochoa).

¹⁵⁰ Golden Dragon, for instance, contends that the cast and roll method permits better control of wall thickness along the length of the mother tube, thus permitting lighter and more consistent wall thicknesses to be drawn in the finishing stage. It contends, moreover, that the cast and roll process also enables Golden Dragon to manufacture smaller diameter product requiring less copper per foot. Golden Dragon Prehearing Brief at 11-12, Hearing Transcript (Weil) at 197. Goodman maintains that it purchases subject cast and roll product because the process results in the far fewer defects in the finished product than in those originating from the extrusion process. Hearing Transcript (Topper) at 201.

Petitioners' argue that there are no differences in the resulting SRC pipe and tube product whether the mother tube is produced from the extrusion or the cast and roll processes. See, e.g., Conference Transcript (Arndt, Hansen, and Sigloch) at 52. In fact, larger diameters can be produced only by the extrusion method. See, e.g., Conference Transcript (Sigloch) at 52. A witness on behalf of petitioners testified that all plumbing and industrial pipe and tubing up to 1-5/8" outer diameters sold by domestic producer Cerro originates from both extrusion or cast and roll technologies interchangeably, customers do not require production by a specific process, and its SRC pipe and tube consistently meets customer specifications because a finished product manufactured to a given specification will always be the same, no matter which prefabrication technology produces the mother tube. Hearing Transcript (Arndt) at 39, 76. ***. Petitioners Posthearing Brief at 9 and Exhibit 6. Petitioners also contend that the defect rate for SRC pipe and tube originating from the extrusion method is no greater than for SRC pipe and tube originating from the cast and roll process.

¹⁵¹ CR at II-12, PR at II-8.

¹⁵² CR at II-12-13, PR at II-8.

was 10.4 percent lower in interim 2010, at 341.5 million pounds, than in interim 2009, at 381.0 million pounds.¹⁵³

C. Supply Conditions

The domestic industry is the largest source of supply in the U.S. market. Domestic producers' market share was 75.8 percent in 2007, 71.3 percent in 2008, and 73.5 percent in 2009. The domestic industry's market share was 77.5 percent in interim 2010 compared with 72.8 percent in interim 2009.¹⁵⁴ U.S. producers' production capacity exceeds domestic demand.¹⁵⁵ Fourteen domestic producers accounted for 95 percent of U.S. SRC pipe and tube production in 2009.¹⁵⁶ The record indicates that some domestic producers manufacture only plumbing tube, some manufacture only industrial pipe and tube, and some manufacture both plumbing and industrial pipe and tube.¹⁵⁷ Mueller, Cerro, Kobe Wieland, and Cambridge-Lee are the largest domestic producers, accounting for *** percent, *** percent, and ***, and percent *** of reported domestic production, respectively.^{158 ***}¹⁵⁹

The market share of subject imports increased from 16.7 percent in 2007 to 21.2 percent in 2008 then declined to 20.0 percent in 2009. Their market share was 13.4 percent in interim 2010 compared with 21.2 percent in interim 2009.¹⁶⁰ *** and *** were the largest reporting U.S. importers of subject SRC pipe and tube accounting for about *** percent of U.S. imports from subject sources. *** imported over *** of subject imports from China and *** imported almost *** of subject imports from Mexico.¹⁶¹ Whereas industrial pipe and tube accounted for only *** percent or less of subject imports from Mexico in 2007 and 2008, they accounted for nearly *** percent in 2009 and about *** percent in interim 2010 compared with about *** percent in interim 2009.¹⁶² Subject imports from China remained largely concentrated in industrial SRC pipe and tube throughout the period examined.

The market share of nonsubject imports was 7.5 percent in 2007 and 2008, 6.5 percent in 2009, and 9.0 percent in interim 2010 compared with 6.0 percent in interim 2009.¹⁶³

D. Interchangeability

There is a moderate to high degree of substitutability between the domestic like product and subject imports.¹⁶⁴ As noted above, market participants perceive domestic SRC pipe and tube and subject imports to be interchangeable. A majority of reporting domestic producers, importers, and purchasers reported that the domestic product is always or frequently interchangeable with the subject imports from each subject source and that the Chinese and Mexican SRC pipe and tube are interchangeable with each

¹⁵³ CR/PR at Tables C-1.

¹⁵⁴ CR/PR at Tables C-1.

¹⁵⁵ Domestic producers' capacity was 1.2 billion pounds in 2007, 1.1 billion pounds in 2008 and 1.1 billion pounds in 2009 and 563.5 million pounds in interim 2009 and 545.7 million pounds in interim 2010. CR/PR at Table C-1.

¹⁵⁶ CR/PR at III-1.

¹⁵⁷ E.g., Petitioners Postconference Brief at 13, IUSA and Nacobre Postconference Brief at 5-7.

¹⁵⁸ CR/PR at Table III-1.

¹⁵⁹ CR at I-22, PR at I-16 n.82.

¹⁶⁰ CR/PR at Tables IV-5, C-1.

¹⁶¹ CR/PR at II-1, CR/PR at Table IV-1.

¹⁶² CR/PR at Tables E-3, E-4.

¹⁶³ CR/PR at Tables IV-5, C-1.

¹⁶⁴ See, e.g., CR at II-24-25, PR at II-17-18.

other.¹⁶⁵ We note, however, as discussed above, that the interchangeability between plumbing and industrial pipe and tube appears to be somewhat limited with respect to finished product characteristics, channels of distribution, and the manner in which they are priced. Regarding price, as explained above, plumbing pipe and tube is typically sold at a discount off published price lists, while commercial pipe and tube is sold by the largest U.S. producers and importers of product from China at the prevailing COMEX price of copper plus a fabrication charge.¹⁶⁶

VII. MATERIAL INJURY AND THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS¹⁶⁷

Based on the record in the final phase of these investigations, we find that an industry in the United States is threatened with material injury by reason of imports of SRC pipe and tube from China and Mexico that Commerce has found are sold at less than fair value.

A. Likely Volume of the Subject Imports¹⁶⁸

1. Material Injury by Reason of Subject Imports

In absolute terms, the volume of subject imports increased from 165.8 million pounds in 2007 to 182.5 million pounds in 2008, then dropped to 139.8 million pounds in 2009.¹⁶⁹ Although the volume of subject imports fell by 15.7 percent overall from 2007 to 2009, it rose by 10.0 percent between 2007 and 2008.¹⁷⁰ Subject imports were 43.1 percent lower in interim 2010, at 45.9 million pounds, than in interim 2009, at 80.7 million pounds.¹⁷¹

The market share of subject imports increased sharply then decreased slightly during 2007-09.¹⁷² Demand declined between 2007 and 2008 as the volume of subject imports increased. Specifically, apparent U.S. consumption decreased by 13.5 percent, whereas the volume of subject imports increased by 10.0 percent.¹⁷³ As a result, the market share held by subject imports increased from 16.7 percent in 2007 to 21.2 percent in 2008.¹⁷⁴ From 2008 to 2009, as apparent U.S. consumption fell by 18.7 percent and the volume of subject imports decreased by 23.4 percent, the market share held by subject imports

¹⁶⁵ CR/PR at Table II-4.

¹⁶⁶ CR at V-2-3, PR at V-2.

¹⁶⁷ Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. Official statistics from Commerce indicate that, from September 2008 to August 2009, which is the most recent 12-month period preceding the filing of the petition for which data were available, subject imports from China accounted for 44.7 percent, and subject imports from Mexico for 29.3 percent, of total imports of SRC pipe and tube in that period. CR at IV-12, PR at IV-11. The volume of subject imports is thus well above the statute's three percent negligibility level.

¹⁶⁸ In its final less than fair value determinations regarding imports of SRC pipe and tube from China and Mexico, Commerce calculated dumping margins ranging from 11.25 percent to 60.85 percent ad valorem for SRC pipe and tube from China and ranging from 24.89 to 27.16 percent ad valorem for SRC pipe and tube from Mexico. CR at I-5, PR at I-4.

¹⁶⁹ CR/PR at Table C-1.

¹⁷⁰ CR/PR at Table C-1.

¹⁷¹ CR/PR at Table C-1.

¹⁷² CR/PR at Table C-1.

¹⁷³ CR/PR at Table C-1.

¹⁷⁴ CR/PR at Table C-1.

fell by just 1.2 percentage points, from 21.2 percent in 2008 to 20.0 percent in 2009.¹⁷⁵ By contrast, the domestic producers' market share declined from 75.8 percent in 2007 to 71.3 percent in 2008 before increasing to 73.5 percent in 2009, a level still below that in 2007.¹⁷⁶

We note that the market share held by subject imports was markedly lower in interim 2010, at 13.4 percent, than in interim 2009, when it was 21.2 percent.¹⁷⁷ By contrast, domestic producers' market share was markedly higher in interim 2010, at 77.5 percent, than in interim 2009, when it was 72.8 percent.¹⁷⁸ Nonsubject imports' share of apparent U.S. consumption, based on quantity, was higher in interim 2010, at 9.0 percent, than in interim 2009, at 6.0 percent.¹⁷⁹

Notwithstanding the declines in subject import volume and market share in interim 2010, we find the volume of subject imports during the period examined to be significant, both in absolute terms and relative to consumption and production in the United States. We note that the declines in the volume and market share of subject imports in interim 2010 occurred after the petitions in these investigations were filed on September 30, 2009. Notably, the decline in subject imports in interim 2010 stands in stark contrast to the relatively steady presence of nonsubject imports in that same time frame.¹⁸⁰ Based on the record evidence, we find that the decline in subject import volumes at the end of the period examined resulted to a large extent from the pendency of these investigations.¹⁸¹ Absent these investigations, the absolute and relative volumes of subject imports would likely have been greater in interim 2010.

We note that certain OEM purchasers that use industrial SRC pipe and tube in their manufacture of HVAC systems argue that the significance of the volume of subject imports should be discounted because certain diameters of SRC pipe and tube or certain inner groove patterns cannot be obtained in the United States. They also claim that they import subject SRC pipe and tube from China because they prefer to use SRC pipe and tube produced by the cast and roll method rather than SRC pipe and tube produced by the extrusion process.¹⁸²

Significantly, however, these purchasers do not argue that subject imports, by whatever method produced, are not generally interchangeable with the domestic like product. Moreover, to the extent they prefer to purchase cast and roll products, cast and roll SRC pipe and tube are produced by the domestic industry, although domestic producers were limited in their ability to produce industrial SRC pipe and tube using the cast and roll production method until 2008.¹⁸³ Additionally, domestic producers are able to produce industrial (including inner groove) pipe and tube with outside diameters up to 1-5/8", the size

¹⁷⁵ CR/PR at Table C-1.

¹⁷⁶ CR/PR at Table C-1.

¹⁷⁷ CR/PR at Table C-1.

¹⁷⁸ CR/PR at Table C-1.

¹⁷⁹ CR/PR at Table C-1.

¹⁸⁰ CR/PR at Table IV-2, IV-3.

¹⁸¹ The statutory provision governing the Commission's treatment of post-petition information, states that:

[T]he Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation ... is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury, threat of material injury, or material retardation of the establishment of an industry in the United States.

¹⁹ U.S.C. § 1677(7)(I).

¹⁸² See Prehearing Brief of Goodman at 5 and Appendices 1, 3; Prehearing Brief of Marubeni and Johnson at 9-11.

¹⁸³ CR at I-15-17, PR at I-13. The combined cast and roll capacity of Cerro and Kobe Wieland is ***. CR at I-17, PR at I-13.

range that comprises the bulk of the market, from mother tube originating from either the extrusion or the cast and roll methodologies. The same finished product originating from mother tube made by either technology is sold to and used by some purchasers interchangeably. Moreover, it appears that these OEM purchasers account for a relatively small share of total HVAC system production and industrial SRC pipe and tube consumption, that the specific 5 mm product that they claim they are required to import is a small share of their total SRC pipe and tube requirements, that the product they import likely could be produced in the United States (but currently is not), and that other HVAC producers, as noted above, use domestically produced industrial SRC pipe and tube produced by both the extrusion and the cast and roll methods.¹⁸⁴

2. Threat of Material Injury by Reason of Subject Imports

As noted above, as demand decreased from 2007 to 2008, the volume of subject imports increased.¹⁸⁵ As a result, the market share held by subject imports increased from 16.7 percent in 2007 to 21.2 percent in 2008, while the market share held by the domestic industry declined from 75.8 percent in 2007 to 71.3 percent in 2008.¹⁸⁶ Nothing on the record indicates that demand will increase in the imminent future.¹⁸⁷

The Commission requested data from the 14 firms that were listed in the petition as producing SRC pipe and tube in China during the period of the investigation. The Commission received responses from eight firms.¹⁸⁸ Exports to the United States by these eight firms accounted for a substantial share of SRC pipe and tube imported from China from January 2007 to June 2010.^{189 190} It appears, however, that there are producers of SRC pipe and tube in China whose operations are not accounted for in the responses of the eight firms reporting here and that, therefore, record data on the Chinese SRC pipe and tube industry (including producers in China who have not exported to the United States) are incomplete.¹⁹¹ The record does include, however, a published *** report that 18 major copper tube manufacturers in China have a combined SRC pipe and tube capacity of 2 billion pounds per year and

¹⁸⁴ CR at I-15-17, PR at I-13, Petitioners Final Comments at 11-13. Even if Golden Dragon’s use of the cast and roll method to produce the 5mm product played a role in U.S. purchasers’ sourcing decision, we note that this product accounted for *** percent of Golden Dragon’s U.S. shipment during the period examined (Petitioners Final Comments at 11, Golden Dragon Posthearing Brief at Attachment 3) and, thus, for ***.

¹⁸⁵ CR/PR at Table C-1.

¹⁸⁶ CR/PR at Table C-1.

¹⁸⁷ See, e.g., CR/PR at Figure II-1.

¹⁸⁸ CR/PR at VII-3.

¹⁸⁹ CR/PR at Tables VII-1 & C-1.

¹⁹⁰ Chairman Okun notes that the statute authorizes the Commission to take adverse inferences but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (“URAA”), H.R. Rep. 103-316, Vol. I at 869 (1994).

¹⁹¹ U.S. importers, for instance, identified the following producers/exporters as other Chinese sources for SRC pipe and tube: ***. CR/PR at VII-3.

were operating at only 35 percent of capacity early in 2009.¹⁹² This means that Chinese producers may have had 1.30 billion pounds of unused capacity at that time. This contrasts with total capacity reported by Chinese producer/exporters in responses to the Commission's questionnaire of 1.2 billion pounds in 2009, and their reported excess capacity of only 12.2 percent, or 145.5 million pounds.¹⁹³

Moreover, even based on the questionnaire response data, it is clear that significant amounts of SRC pipe and tube capacity and excess capacity are available in China that can be used to produce SRC pipe and tube for the U.S. market. Reported Chinese capacity was 1.0 billion pounds in 2007, 1.1 billion pounds in 2008, 1.2 billion pounds in 2009, and 644.4 million pounds in interim 2010 compared with 588.7 million pounds in interim 2009. Thus, Chinese capacity increased 17.3 percent from 2007 to 2009, and was 9.5 percent higher in interim 2010 than in interim 2009. Chinese producers' reported capacity utilization rates of 88.1 percent in 2007, 82.0 percent in 2008, 87.8 percent in 2009, and 86.6 percent in interim 2010. Accordingly, the responding Chinese producers reported 145.5 million pounds of unused capacity in 2009.¹⁹⁴ This unused capacity substantially exceeds China's peak shipments to the U.S. market of 103.4 million pounds in 2008.¹⁹⁵ Chinese capacity is projected to increase further in 2010 and 2011.¹⁹⁶

The capacity and excess capacity reported by Mexican producers is also substantial. The Commission received questionnaire responses from each of the five producers of SRC pipe and tube in Mexico from which it requested data. These firms are believed to account for *** of Mexican export shipments to the United States in 2009.¹⁹⁷ Capacity reported by Mexican producers increased from *** million pounds in 2007 to *** million pounds in 2008, and to *** million pounds in 2009, a 2007-09 increase of *** percent. Capacity was *** percent higher in interim 2010, at *** million pounds, than in interim 2009, at *** million pounds. Mexican producers' capacity is projected to increase further in 2010 and 2011.¹⁹⁸ Capacity utilization rates reported by the Mexican producers declined over the period examined from *** percent in 2007, to *** percent in 2008, and to *** percent in 2009. The rate was lower in interim 2010, at *** percent, than in interim 2009, at *** percent. Accordingly, Mexican producers reported *** million pounds of unused capacity in 2009.¹⁹⁹ This unused capacity substantially exceeds Mexican producers' peak shipments to the U.S. market of 74.8 million pounds in 2007.^{200 201}

¹⁹² Petitioners Postconference Brief at 4, Petitioners Prehearing Brief at Exhibit 6 (***).

¹⁹³ CR/PR at Table VII-1.

¹⁹⁴ CR/PR at Table VII-1.

¹⁹⁵ CR/PR at Table C-1.

¹⁹⁶ CR/PR at Table VII-1.

¹⁹⁷ CR at VII-6, PR at VII-5.

¹⁹⁸ CR at VII-6, PR at VII-5; CR/PR at Table VII-4.

¹⁹⁹ CR/PR at Table VII-1.

²⁰⁰ CR/PR at Table C-1.

²⁰¹ Contributing to the actual and projected capacity increases in Mexico, Golden Dragon Affiliates opened a plant in Monclova, Mexico at the end of September 2009 and projects capacity at the plant to be approximately ***. Golden Dragon's intention in opening the facilities in Mexico was to produce the same products in Mexico that are being produced for export to the United States by Golden Dragon's Chinese operations to permit replacement of U.S. imports from Golden Dragon in China with imports from Golden Dragon in Mexico. CR at VII-7, PR at VII-6. Another Mexican producer, Luvata Monterrey, began production in 2009 ***. Id. IUSA asserts that it is shifting its production of plumbing pipe and tube for U.S. consumption from its operations in Mexico to its related party producer in the United States, Cambridge-Lee, and that therefore its exports of subject merchandise from Mexico to the United States have declined or will decline as a result. In light of the emergence of new producers in Mexico and declining demand conditions in the U.S. market, we find that IUSA's shift of production from Mexico to the United States does not mean that increased imports from Mexico (in absolute or relative terms) are not likely in the
continue...

Reported excess capacity for Chinese and Mexican producers combined was *** million pounds in 2009, *** percent greater than the *** million pounds peak volume of subject imports in 2008.²⁰²

Chinese and Mexican producers' inventories would also permit them to increase exports to the United States. Chinese producers reported end-of-period inventories of 21.0 million pounds in 2007, 16.1 million pounds in 2008, 20.1 million pounds in 2009, 16.0 million pounds in interim 2009, and 23.9 million pounds in interim 2010.²⁰³ Mexican producers reported end-of-period inventories of *** million pounds in 2007, *** million pounds in 2008, *** million pounds in 2009, *** million pounds in interim 2009, and *** million pounds in interim 2010.²⁰⁴ Accordingly, subject producers inventories, which were equivalent to only *** percent of apparent U.S. consumption in 2007 and *** percent in 2008, increased to *** percent in 2009, and were *** percent in interim 2010 compared with *** percent in interim 2009.²⁰⁵

Chinese and Mexican producers/exporters have incentives to increase exports to the U.S. market. The U.S. market is familiar to SRC pipe and tube producers in China and Mexico that have developed channels of distribution in the United States market during the period examined and, as such, have established relationships with a broad range of importers. The significance of those relationships is heightened to the extent that importers in the United States are related to subject producers/exporters. For instance, Golden Dragon and Luvata each has production operations in China and Mexico and a related importer in the United States, and IUSA is related to the U.S. producer and importer Cambridge-Lee. Moreover, during 2007-09, more than one-third of the total exports of Chinese producers/exporters and more than *** of the total exports of Mexican producers/exporters were to the United States,²⁰⁶ indicating that they view the United States as an attractive export market. There is no indication in the record that Chinese and Mexican producers, in the absence of antidumping duty orders, would find the U.S. market any less attractive in the imminent future than they have during the period examined, during which they increased their overall market share by 3.3 percentage points between 2007 and 2009.²⁰⁷ In fact, Golden Dragon opened its plant in Mexico intending to supply product it currently ships from China, but the capacity will remain available in its Chinese facility.²⁰⁸ Thus, although demand in the United States is expected to remain low in the imminent future, Chinese and Mexican producers would likely target the new orders for SRC pipe and tube that arise, consistent with their behavior in aggressively seeking sales and market share gains in the United States during the period examined.²⁰⁹

Based on the above, we conclude that producers of SRC pipe and tube in China and Mexico have the ability and the incentive to increase exports of subject SRC pipe and tube. We also conclude that the United States is a highly attractive market for Chinese and Mexican SRC pipe and tube producers as evidenced by their increased presence in and familiarity with the U.S. market in recent years and the

²⁰¹ ...continue

imminent future, as IUSA claims.

²⁰² CR/PR at Tables VII-1, VII-4, C-1. We note that these data are limited to data provided by the eight Chinese producers that responded to the Commission's foreign producer questionnaire.

²⁰³ CR/PR at Table VII-1. We note that these data are limited to data provided by the eight Chinese producers that responded to the Commission's foreign producer questionnaire.

²⁰⁴ CR/PR at Table VII-4.

²⁰⁵ CR/PR at Tables IV-7, VII-1, VII-4.

²⁰⁶ CR/PR at Tables VII-1, VII-4.

²⁰⁷ As discussed above, official Commerce statistics indicate that subject imports have been at extremely low levels since March 2010. CR/PR at Tables IV-4. As noted above, we find that the decline in subject imports' market share attributable to the pendency of these investigations. See 19 U.S.C. § 1677(7)(I).

²⁰⁸ Golden Dragon Final Comments at 12, Hearing Transcript (Weil) at 153.

²⁰⁹ See Petitioners Prehearing Brief at Exhibit 13 (quoting Golden Dragon's President as stating, "[e]ven if we lose at the final [ITC] ruling, we will continue to export to the American market and seize a larger market share....").

importance of the U.S. market among their export markets. Additionally, we note that the market share of subject imports in the United States has increased during the period examined or remained at or near period high levels, with the exception of interim 2010. As noted, we attribute the decline in interim 2010 to these pending investigations. We find that subject imports could easily increase at least to their peak absolute volume in 2008. Thus, we conclude that subject import volume is likely to be significant in the imminent future, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject imports' market share will likely be significant.

B. Likely Price Effects of the Subject Imports

1. Material Injury by Reason of Subject Imports

As explained above in the discussion of conditions of competition, the domestic like product and subject imports are generally interchangeable, and price is an important consideration in purchasing decisions.²¹⁰ The Commission collected quarterly pricing data for eight SRC pipe and tube products.²¹¹ Eight U.S. producers, 13 importers of SRC pipe and tube from China, and eight importers of SRC pipe and tube from Mexico provided usable pricing data for sales of those eight pricing products. Pricing data reported by these firms accounted for approximately 11 percent of U.S. producers' shipments of SRC pipe and tube, 81 percent of U.S. shipments of subject imports from China, and 17 percent of U.S. shipments of subject imports from Mexico in 2009.²¹²

Subject imports undersold the domestic like product in 96 of 181 quarterly pricing comparisons by margins ranging from less than one percent to 27.6 percent.²¹³ We note, however, that subject imports undersold the domestic like product with far greater frequency for products that accounted for the largest volume of imports. In fact, the 96 quarterly instances in which subject imports undersold the domestic product accounted for approximately two-thirds (67.1 percent) of the total volume of subject imports for the eight products used in these comparisons.²¹⁴ In light of the degree of mixed underselling and overselling, we do not find that subject imports undersold the domestic like product to a significant degree during the period examined.²¹⁵

In examining the record for evidence that subject imports had significant price depressing effects, we note that prices for all eight U.S.-produced SRC pipe and tube products fluctuated within a wide range during the period examined, but increased overall from the first quarter to the last.²¹⁶ Most of this price fluctuation and increase, however, can be attributed to the cost of raw materials, which accounted for 84 percent of the COGS during the period examined, rather than the effect of subject imports.²¹⁷ Prices for U.S.-produced products 1 through 8 increased by 2.4 to 22.3 percent. Prices for products 2 and 3 imported from China decreased by 4.1 to 54.9 percent, respectively, and prices of other products increased by 0.9 to 39.3 percent. Prices of products 5 and 6 imported from Mexico decreased by 5.7 and

²¹⁰ CR/PR at Tables II-4 & II-6.

²¹¹ CR at V-6, PR at V-4.

²¹² CR at V-7, PR at V-4.

²¹³ CR/PR at Table V-7.

²¹⁴ CR/PR at Tables V-1-8. See, e.g., CR at Table V-5 (underselling in 9 of 14 comparisons of prices for the domestic and Chinese product 5; product 5 accounts for the majority of subject imports analyzed in the quarterly price comparison tables).

²¹⁵ Vice Chairman Williamson finds that subject imports undersold the domestic like product to a significant degree during the period examined.

²¹⁶ CR/PR at Table V-9.

²¹⁷ CR at VI-5, PR at VI-1.

5.3 percent respectively and prices of other products increased by 5.2 to 19.1 percent.²¹⁸ Accordingly, we do not find adequate evidence on the record to find that subject imports significantly depressed the prices of domestically produced SRC pipe and tube.

We do not find evidence that subject imports prevented price increases that otherwise would have occurred to a significant degree. Although the domestic industry experienced an increase in costs relative to sales revenues in 2009,²¹⁹ the increase coincided with a decline in demand that was a consequence of conditions in the overall economy and the market for SRC pipe and tube.²²⁰ Moreover, the decline in demand during the period examined – especially between 2008 and 2009 – made it more difficult for domestic producers to raise prices; purchasers had less need for SRC pipe and tube and were therefore likely less willing to pay higher prices. We also note that the domestic industry’s COGS-to-sales ratio continued to increase in 2009 and in interim 2010 despite decreasing subject imports. Accordingly, we are unable to find that subject imports, which fell in tandem with the downturn in demand and maintained a relatively steady share of the market, played a significant role in the increase in the industry’s COGS-to-sales ratio in 2009. For these reasons, we do not find that subject imports significantly suppressed prices for the domestic like product in 2009.

For the above reasons, we conclude that subject imports are not currently having a significant adverse effect on domestic producers’ prices for SRC pipe and tube.

2. Threat of Material Injury by Reason of Subject Imports

We next consider the likely price effects of subject imports in the imminent future. The record includes evidence of some underselling and aggressive marketing of low priced subject imports during the period examined.²²¹ As sellers of the Chinese and Mexican product attempt to increase sales of the subject product in the United States, they are likely to increase their use of underselling and aggressive pricing as a means of increasing market share, particularly given that SRC pipe and tube from China and Mexico are generally substitutable and price is an important factor in purchasing decisions.²²² This underselling by subject imports is likely to increase the attractiveness of those imports to domestic purchasers compared with domestically produced pipe.

We find that the increasing and significant volumes of subject imports that are likely in the imminent future in the absence of antidumping duty orders would be aggressively priced in an effort to gain market share. Pressure on the domestic industry would be to either lower prices, or more likely, cede volume, given the limit on the domestic industry to lower prices in the face of aggressive pricing strategies by subject imports. While the total volume and value of confirmed lost sales and lost revenues was not great in the context of total consumption, purchasers reported that during the period of investigation, they switched suppliers from domestic to subject sources because of lower subject import prices, or U.S. producers had reduced their prices in order to compete with prices of SRC pipe and tube from China or Mexico.²²³ We further recognize that the raw material share of the cost of production is significant and limits the ability of the domestic producers to lower prices.²²⁴

²¹⁸ CR/PR at Table V-9; CR at V-7, PR at V-12.

²¹⁹ COGS as a percentage of net sales increased from 90.7 percent in 2007 to 91.5 percent in 2008 and 93.5 percent in 2009. The COGS/net sales ratio was higher in interim 2010, at 94.2 percent, than in interim 2009, at 93.0 percent. CR/PR at Table C-1.

²²⁰ CR/PR at Table C-1.

²²¹ E.g., CR/PR at Tables V-1 - V-8, Petitioners Final Comments at 7.

²²² CR/PR at Tables II-4, II-2.

²²³ See, e.g., CR at V-33-43, PR at V-14-19 (comments of representatives of ***).

²²⁴ CR at VI-5, PR at VI-1.

We note that the domestic industry was not able to raise prices in interim 2010 to offset higher COGS compared with interim 2009, resulting in a higher COGS to net sales ratio in interim 2010 than in interim 2009.²²⁵ This suggests that the domestic industry will have little flexibility to compete aggressively with subject imports on price. For these reasons, we conclude that the domestic industry is likely to cede market to the subject imports.

We conclude that, in the imminent future, increased quantities of subject imports, that are aggressively priced in an effort to gain market share would cause the domestic industry to cede market share as well as experience some price suppression in a market that will likely remain characterized by severely depressed demand. As subject imports cause domestic sales volumes and prices to deteriorate and per-unit costs to increase, the domestic industry would likely experience adverse price effects through higher unit costs, compressed margins, and some price suppression as well.

C. Likely Impact of the Subject Imports on the Domestic Industry

1. Material Injury by Reason of Subject Imports

As discussed above, apparent U.S. consumption of SRC pipe and tube declined over the period examined.²²⁶ Many indicators of the domestic industry's performance declined in the same manner, including production,²²⁷ capacity,²²⁸ capacity utilization,²²⁹ shipments,²³⁰ net sales,²³¹ operating income and operating margins,²³² and employment.²³³ Although most of the industry's performance indicators were down sharply in 2009 compared with 2007, we are not able to conclude that these declines were significantly linked to subject imports rather than declines in demand. Although capital expenditures

²²⁵ As noted above, COGS as a percentage of sales was higher in interim 2010, at 94.2 percent, than in interim 2009, at 93.0 percent. CR/PR at Table C-1.

²²⁶ CR/PR at Table C-1.

²²⁷ The domestic industry's production declined 31.9 percent between 2007 and 2009. Its production was 781.1 million pounds in 2007, 640.0 million pounds in 2008, 531.6 million pounds in 2009. Production was 284.8 million pounds in interim 2009 and 296.1 million pounds in interim 2010. CR/PR at Table C-1.

²²⁸ The domestic industry's capacity declined 8.3 percent overall between 2007 and 2009. Its capacity was 1.223 billion pounds in 2007, 1.121 billion pounds in 2008, and 1.123 billion pounds in 2009. Capacity was 563.5 million pounds in interim 2009 and 545.7 million pounds in interim 2010. CR/PR at Table C-1.

²²⁹ The domestic industry's capacity utilization declined by 16.5 percentage points between 2007 and 2009. Its capacity utilization was 63.8 percent in 2007, 57.1 percent in 2008, and 47.3 percent in 2009. Capacity utilization was 50.5 percent in interim 2009 and 54.3 percent in interim 2010. CR/PR at Table C-1.

²³⁰ U.S. producers' U.S. shipments declined by 31.9 percent between 2007 and 2009. Their domestic shipments were 752.5 million pounds in 2007, 612.0 million pounds in 2008, and 512.8 million pounds in 2009. Shipments were 277.3 million pounds in interim 2009 and 264.7 million pounds in interim 2010. CR/PR at Table C-1.

²³¹ The domestic industry's net sales, by value, declined 48.3 percent between 2007 and 2009. Its net sales totaled \$3.151 billion in 2007, \$2.762 billion in 2008, and \$1.630 billion in 2009. Net sales totaled \$748.3 million in interim 2009 and \$1.162 billion in interim 2010. CR/PR at Table C-1.

²³² The domestic industry's operating income declined by 79.6 percent overall between 2007 and 2009. Its operating income totaled \$219.9 million in 2007, \$167.4 million in 2008, and \$44.9 million in 2009. Operating income was \$21.9 million in interim 2009 and \$34.2 million in interim 2010. As a ratio to net sales, the domestic industry's operating income was 7.0 percent in 2007, 6.1 percent in 2008, and 2.8 percent in 2009. It was 2.9 percent in interim 2009 and interim 2010. CR/PR at Table C-1.

²³³ Production and related workers ("PRWs") were 3,644 in 2007, 3,303 in 2008, 2,902 in 2009, 2,962 in interim 2009, and 2,668 in interim 2010. Hours worked by PRWs were 7.8 million 2007, 7.0 million in 2008, 5.9 million in 2009, 3.1 million in interim 2009, and 2.8 million in interim 2010. Worker productivity (in pounds per hour) was 100.1 in 2007, 91.6 in 2008, 90.5 in 2009, 93.1 in interim 2009, and 105.3 in interim 2010. CR/PR at Table C-1.

declined overall during the period examined, we note that the industry was able to undertake significant capital expenditures.²³⁴ Cerro and Kobe Wieland, which reported ***, engaged in significant modernization programs during the period examined, including, as discussed above, the development of production using cast and roll technology.²³⁵ As noted above, the domestic industry experienced modest improvement in many of its performance indicators in interim 2010.²³⁶

Accordingly, we do not find that the domestic industry producing SRC pipe and tube was materially injured by reason of subject imports during the period examined.

2. Threat of Material Injury by Reason of Subject Imports

As discussed above, we do not find the domestic industry to be currently materially injured by reason of subject imports. We do, however, find that, in light of the substantial declines in the industry's performance as summarized above, the industry is in a vulnerable condition. Increasing this vulnerability are the industry's relatively recent and substantial capital expenditures in cast and roll technology. *** has not yet achieved the ***.²³⁷ In the absence of any indication that demand for SRC pipe and tube will increase significantly, the domestic industry is unlikely to perform well in the near term. As a result, even relatively modest volumes of subject imports have the potential to cause significant adverse consequences for the domestic industry.

The state of the domestic SRC pipe and tube industry toward the end of the period examined (2009 and interim 2010) weighs heavily in our consideration of the likely impact of subject imports in the imminent future. As discussed above, the industry's performance in 2009 declined substantially in terms of production, shipments, net sales, unit COGS, operating income, and operating margins. The industry experienced overall declines in these performance indicators between 2007 and 2009 and only a moderate recovery in interim 2010.²³⁸

The current state of the domestic industry is primarily attributable to the sudden drop in demand that began in 2008. Looking forward, the conditions that drove demand and domestic prices upward in 2008 are not likely to recur in the imminent future. Rather, demand is likely to remain anemic in the imminent future.²³⁹

We evaluate the likely effects of the significant volume of aggressively priced subject imports from China on the domestic industry in the imminent future in light of these market conditions. In the absence of antidumping duty relief, we conclude that the likely increasing and significant volumes of subject imports would be priced aggressively enough to gain sales at the expense of domestic producers. Consequently, the domestic industry would likely experience declines in production, market share, capacity utilization, and shipments. The domestic industry would also likely experience lower employment levels, net sales, operating income, and profitability. Accordingly, we find that there is a likely causal relationship between the subject imports and an imminent adverse impact on the domestic industry.

We have considered whether other factors would likely have an imminent adverse impact on the domestic industry. As noted, we recognize the impact of the decline in demand for SRC pipe and tube

²³⁴ CR/PR at Table C-2.

²³⁵ CR at VI-7-8, PR at VI-4.

²³⁶ CR/PR at Table C-1.

²³⁷ CR/PR at Table III-3.

²³⁸ CR/PR at Table C-1.

²³⁹ CR/PR at Figure II-1. The substitution of plastic in plumbing applications and aluminum and stainless steel pipe and tube in industrial applications reportedly occurred during the period examined in part because of increased copper prices. CR at II-12-13, PR at II-8-9. If copper prices reach similarly high levels in the near future, such substitution may accelerate.

after 2008 on the domestic industry's performance. Although demand is likely to remain at depressed levels in the imminent future, it is not likely to decline further from present levels. Accordingly, the likely further declines in the domestic industry's production, market share, capacity utilization, shipments, employment levels, productivity, and operating income will come as a result of subject imports gaining market share rather than as a result of continued or renewed declines in demand.

We also recognize that nonsubject imports were a factor in the U.S. market during the period examined. Subject imports, however, gained market share from the domestic industry from 2007 to 2009, while the market share of nonsubject imports declined in that period. Moreover, in interim 2010, when subject imports lost market share following the filing of the petitions in these investigations, the domestic industry's market share increased by 4.7 percentage points, whereas nonsubject imports increased by only 3.0 percentage points.²⁴⁰ We note that the domestic industry's condition improved to some extent, as discussed above, in interim 2010.²⁴¹ Accordingly, the presence of nonsubject imports in the U.S. market does not alter our finding that, in the absence of the restraining effect of antidumping duty orders, the subject imports will have a significant adverse impact on the performance of the domestic industry.

We conclude that a significant volume of less-than-fair-value imports from China and Mexico would likely gain additional U.S. market share in the imminent future and lead to material injury to the vulnerable domestic industry by reason of subject imports in the absence of antidumping duty relief. Accordingly, we determine that the domestic industry is threatened with material injury by reason of subject imports from China and Mexico.

We further determine, pursuant to 19 U.S.C. § 1671d(b)(4)(B), that we would not have found material injury but for the suspension of liquidation of subject imports.

CONCLUSION

For the foregoing reasons, and based on the record in these final phase investigations, we find that an industry in the United States is threatened with material injury by reason of subject imports of SRC pipe and tube from China and Mexico that Commerce has found are sold in the United States at less than fair value.

²⁴⁰ CR/PR at Table C-1. The record data on nonsubject import prices is very limited. Those data suggests a mixed but fairly balanced pattern of underselling and overselling compared with prices for domestically produced product and subject imports. CR at G-3, PR at G-3; CR/PR at Tables G-1, G-2.

²⁴¹ CR/PR at Table C-1.

SEPARATE VIEWS OF COMMISSIONER CHARLOTTE R. LANE

Based on the record in the final phase of these investigations, I find that an industry in the United States is materially injured by reason of imports of SRC pipe and tube from China and Mexico that Commerce has found are sold at less than fair value. I join in parts I through IV.B.1. of the Views of the majority. I also join in part V, Legal Framework, and part VI, Conditions of Competition. I write separately concerning Material Injury By Reason of Subject Imports.

Volume of the Subject Imports

The absolute volume of subject imports increased from 165.8 million pounds in 2007 to 182.5 million pounds in 2008, and then dropped to 139.8 million pounds in 2009. The increase in subject imports between 2007 and 2008 was 10.0 percent. That increase was followed by a drop of 23.4 percent between 2008 and 2009. Overall, between 2007 and 2009 the volume of subject imports declined by 15.7 percent. The volume of subject imports declined both absolutely and relative to apparent domestic consumption in interim 2010, dropping to 45.9 million pounds in interim 2010 compared to 80.7 million pounds in interim 2009.¹

Because of a declining U.S. market, even though the volume of subject imports dropped between 2007 and 2009, the market share of subject imports actually increased from 16.7 percent in 2007 to 20.0 percent in 2009. By contrast, the domestic producers' market share declined from 75.8 percent in 2007 to 73.5 percent in 2009.² In interim 2010 the market share of subject imports was lower, at 13.4 percent, than in interim 2009, when it was 21.2 percent. The domestic producers gained market share in interim 2010, going from 72.8 percent to 77.5 percent.³ Nonsubject imports also gained market share in interim 2010 over interim 2009, going from 6.0 percent to 9.0 percent.⁴

The declines in the volume and market share of subject imports in interim 2010 occurred after the petitions in these investigations were filed on September 30, 2009. I find that the decline in subject import volumes at the end of the period examined was due, to a significant degree, to the initiation of these investigations. Accordingly, for the purpose of evaluating the volume of subject imports, I give less weight to the substantial decline in volume and market share of subject imports in the latter part of 2009 and in interim 2010.⁵

Subject imports equaled 22.0 percent of U.S. shipments of domestic production of SRC pipe and tube in 2007. This relationship increased to 29.8 percent in 2008. Even with a significant drop in subject imports in 2009, they still equaled 27.3 percent of shipments of domestic SRC pipe and tube in 2009. This measure of relative subject imports dropped in interim 2010 as subject imports equaled 17.3 percent

¹ CR/PR at Table C-1.

² Id.

³ Id.

⁴ Id.

⁵ The statutory provision governing the Commission's treatment of post-petition information, states that:

[T]he Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation ... is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury ... 19 U.S.C. § 1677(7)(I).

of shipments of domestic production.⁶ Comparing the volume of subject imports to domestic production yields similar results. Subject imports, represented 21.2 percent, 28.5 percent, 26.3 percent and 15.5 percent of domestic production in 2007, 2008, 2009, and interim 2010 respectively.⁷

I find the volume of subject imports during the period examined is significant, both in absolute terms and relative to consumption and production in the United States.

Price Effects of the Subject Imports

The Commission collected quarterly pricing data for eight SRC pipe and tube products.⁸ Pricing data reported in questionnaire responses accounted for approximately 11 percent of U.S. shipments of domestic SRC pipe and tube, 81 percent of U.S. shipments of subject imports from China, and 17 percent of U.S. shipments of subject imports from Mexico in 2009.⁹

Subject imports from China undersold the domestic like product in 43 of 91 pricing comparisons. This represents underselling in 47.3 percent of the quarterly comparisons. Subject imports from Mexico undersold the domestic like product in 53 of 90 quarterly pricing comparisons, or 58.9 percent of the quarterly comparisons. In total, subject imports undersold the domestic like product in 96 of 181, or 53.0 percent, of the quarterly pricing comparisons.¹⁰

These data alone indicate mixed results, but show a significant number, and a majority, of quarterly comparisons in which there was underselling by subject imports. However, further review of the data based on volumes for which there was underselling produces an even stronger indication that the underselling by subject imports was significant and pervasive.

The following table summarizes the quarters of underselling of domestic like product prices by subject imports and the associated volumes that undersold the prices of the domestic like product. The data for the following table are taken from Tables V-1 through V-8 in the Commission's Final Report.

Summarizing and comparing the pricing product data by volume shows that there were 146,417,000 pounds of subject imports from China that undersold domestic like product out of a total reported volume of Chinese subject imports of 216,947,000 pounds. Although 47.3 percent of the quarters reflected underselling by Chinese subject imports, on the basis of volume underselling occurred for 67.5 percent of the subject imports from China.

Similarly, for subject imports from Mexico, there were 24,239,000 pounds that undersold domestic like product out of a total reported subject import volume of 37,450,000 pounds. On a volumetric basis, the underselling by subject imports from Mexico occurred for 64.7 percent of the pricing products.

In total, by a count of quarters of data, 53.0 percent of the quarterly pricing comparisons showed underselling by total subject imports from China and Mexico, however, on a volumetric basis the underselling occurred for 67.1 percent of those subject imports.

Review of the pricing data also shows that the domestic like product was undersold by either subject imports from China or subject imports from Mexico in approximately 66.0 percent of the 112

⁶ Derived from CR/PR at Table C-1.

⁷ Id.

⁸ CR at V-6, PR at V-4.

⁹ CR at V-7, PR at V-4.

¹⁰ Derived from CR/PR Tables V-1 through V-8.

quarters of data covering the eight pricing products over three and one-half years.¹¹ The underselling competed against a large majority of the volumes of domestic SRC pipe and tube for which pricing data was gathered as approximately 75.0 percent of the total volume of domestic like product reported in the pricing data was undersold by either Chinese or Mexican subject imports.

Based on the record in these investigations, I find that subject imports undersold domestic like product for a significant majority of volumes for which price comparisons are available. I take this significant underselling into consideration in my evaluation of the extent to which injury to the domestic industry is by reason of subject imports.

The domestic industry suffered from a cost-price squeeze from 2007 through 2009. This squeeze is seen as Cost of Goods Sold (COGS) increased in 2008 and as COGS declined in 2009. In 2008 the domestic industry was not able to increase prices as much as the increase in COGS as unit COGS increased by \$0.19 per pound while unit revenue increased by only \$0.17 per pound. In 2009 the domestic industry experienced a significant decrease in unit COGS, but its unit revenue decreased even more as COGS dropped by \$1.00 per pound and revenue dropped by \$1.15 per pound. As a result of this cost-price squeeze, gross profit fell from \$0.38 per pound in 2007 to \$0.36 per pound in 2008 and then fell again to only \$0.21 per pound in 2009.¹²

Considering the conditions of competition, including the substitution and demand elasticities for SRC pipe and tube, even though the demand for SRC pipe and tube dropped in 2008 and 2009, I do not find that the decreased demand can be the sole, or even primary, cause for the inability of the domestic industry to hold its gross profit levels in 2008 and 2009 closer to the level achieved at the beginning of the period in 2007. Subject imports contributed significantly to the cost-price squeeze experienced by the domestic industry. Given the availability of lower priced subject imports, it is not surprising that purchasers would have held the line against domestic price increases for their SRC pipe and tube.

Unlike calendar years 2008 and 2009 when subject imports were increasing their market share, the domestic industry was able to reverse the decline in gross profit in a continuing weak market and in the face of significant increases in costs during interim 2010. From interim 2009 to interim 2010 the unit COGS of the domestic industry increased by \$1.32 per pound while its unit value of sales increased by \$1.36 per pound. The gross profit of the domestic industry increased from \$0.19 per pound in interim 2009 to \$0.23 per pound in interim 2010. The ability of the domestic industry to increase prices significantly in interim 2010, even more than the substantial increase in COGS, occurred within a continuing weak market and in the face of increases in nonsubject import market share, but, notably, also within a period of significant decline in subject import market share. Apparent domestic consumption was very low in interim 2010, at 341.5 million pounds compared to 381.0 million pounds in interim 2009, a weak market that would indicate resistance to price increases. However in conjunction with that weak market, subject imports declined to their lowest market share by far at 13.4 percent in interim 2010. The domestic industry, which had been unable to even maintain gross profit margins at the 2007 level in 2008 and 2009 when subject import market share was increasing in a weak market, was able to reverse its cost-price squeeze and increase its gross profit margin in interim 2010 in a continuing weak market, but coincidental with a substantial decline in subject import market share.

I find that the record clearly supports a finding that competition from unfairly traded imports that pervasively undersold the domestic like product in significant volumes contributed substantially to the cost-price squeeze experienced by the domestic industry during the period of investigation. Therefore, I find that subject imports suppressed domestic prices to a significant degree, preventing domestic price increases that otherwise would have occurred absent the low-priced, unfairly traded, subject imports.

¹¹ CR/PR Tables V-1 through V-8.

¹² In interim 2009 the unit gross profit was only \$0.19 per pound.

Likely Impact of the Subject Imports on the Domestic Industry

Almost all of the indicators of the domestic industry's performance declined during the full years covered by the period of investigation. The domestic industry's production declined by 32.0 percent from 2007 to 2009, dropping from 781.1 million pounds in 2007 to 640.0 million pounds in 2008, and then to 531.6 million pounds in 2009.¹³ During the same period, total apparent U.S. consumption dropped by 29.7 percent. Even before the full force of the U.S. and worldwide recession was felt in 2009, U.S. production declined by 18.1 percent in 2008. This exceeded the reduction in U.S. demand, which dropped by only 13.5 percent in 2008. Domestic production began to pick up in interim 2010, helped by increases in export sales by U.S. producers and the decline in subject imports. Production, which had been 284.8 million pounds in interim 2009 (January through June), and even lower at 246.8 million pounds in the last half of 2009, increased to 296.1 million pounds in interim 2010 (January through June).

The production capacity of the domestic industry dropped from 1.224 billion pounds in 2007 to 1.123 billion pounds in 2009, a decrease of 8.3%. Capacity utilization dropped from 63.8 percent in 2007 to 47.3 percent in 2009. For the interim periods examined, capacity utilization was 50.5 percent in interim 2009 and 54.3 percent in interim 2010.¹⁴

Mirroring the reduction in production, domestic shipments dropped by 18.7 percent from 2007 to 2008 and by an aggregate 31.9 percent from 2007 to 2009. The U.S. producers lost market share from 2007 to 2009 since the drop in shipments of U.S. production significantly exceeded the drop in apparent U.S. consumption. This steep decline in the market share of domestically produced SRC pipe and tube reversed in interim 2010. While U.S. shipments of domestic production had been declining more rapidly than the decline in apparent U.S. consumption in 2008 and 2009, in interim 2010 domestic shipments dropped by only 4.5 percent as compared to the 10.4 percent drop in U.S. consumption and the market share of the domestic industry rebounded from 72.8 percent in interim 2009 to 77.5 percent in interim 2010. This increase in market share in 2010 occurred as subject imports were leaving the U.S. market both absolutely and as measured by market share.

Domestic employment declined significantly during the period of investigation, dropping from 3,644 workers in 2007 to 2,902 workers in 2009, a decline of 20.4 percent. Hours worked dropped even more, declining by 24.6 percent from 2007 to 2009. The slight rebound in domestic production quantities and the increase in market share in interim 2010 was not translated into a recovery in jobs or hours worked. The number of production workers continued to decline in interim 2010, dropping from 2,962 in interim 2009 to 2,668 in interim 2010, a drop of 9.9 percent. Hours worked dropped in interim 2010 by 8.1 percent.¹⁵

The operating income of the domestic industry dropped from \$219,878,000 in 2007 to \$44,893,000 in 2009, a decrease of 79.6 percent.¹⁶ Net income dropped slightly more, going from \$209,652,000 in 2007 to \$35,285,000 in 2009, a decrease of 83.2 percent.¹⁷ Unit net operating income dropped from \$0.28 per pound in 2007 to \$0.09 in 2009, a decrease of 70.0 percent. The ratio of net operating income to sales dropped from 7.0 percent in 2007 to 2.8 percent in 2009.¹⁸ The unit net

¹³ CR/PR at Table C-1.

¹⁴ Id.

¹⁵ Id.

¹⁶ CR/PR at Table C-1.

¹⁷ CR/PR at Table VI-1.

¹⁸ CR/PR at Table C-1.

operating income improved to \$0.12 per pound in interim 2010 and the ratio of net operating income to sales also improved very slightly over calendar year 2009, going to 2.9 percent.

The level of capital expenditures made by the domestic industry declined from \$41,162,000 in 2007 to \$34,090,000 in 2009, a decline of 17.2 percent. Capital expenditures dropped more significantly between the interim periods, going from \$17,231,000 in interim 2009 to only \$6,024,000 in interim 2010, a decline of 65.0 percent.¹⁹

Cash flow generated by the domestic industry declined significantly from \$247,946,000 in 2007 to \$73,175,000 in 2009, a decrease of 70.5 percent.²⁰ The return on investment earned by the domestic industry dropped from 17.5 percent in 2007 to 15.8 percent in 2008 and then plummeted to 4.4 percent in 2009.²¹

Based on declines in all indicators of the operational and financial health of domestic producers and the significant declines in employment, I find that the domestic industry suffered material injury during the period of investigation. However, the mere existence of material injury is not the only thing that I must determine. It is necessary to determine whether subject imports were a material contributor to the injury. As discussed in more detail in Section V of the majority Views, in which I have joined, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports. Nor does the "by reason of" standard require that unfairly traded imports be the principal cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors which may be contributing to overall injury to an industry. Moreover, the existence of injury caused by other factors does not compel a negative determination.²²

The significant decline in U.S. demand associated with an unprecedented economic depression and a downturn in the construction and manufacturing activities, upon which demand for SRC pipe and tube depends, contributed to injury to the domestic industry. However, that contributory factor does not eliminate the reality that the domestic industry was, at the time of these critical economic problems, faced with competition from significant volumes of unfairly traded subject imports. I cannot conclude that simply because there were multiple causes of injury to the domestic industry that there is not material injury by reason of subject imports. Therefore, I further analyze the data to determine if the record supports a finding of material injury by reason of the subject imports during the period of investigation.

In order to determine whether a significant portion of the material injury experienced by the domestic industry is attributable to subject imports I analyze the likely impacts during the period of investigation if subject imports had been fairly traded in the U.S. market. For this analysis, it is necessary to consider the conditions of competition existing for this industry. These conditions include supply and demand conditions and certain related elasticity factors. Although the Commission has discussed some of these conditions in the portions of the majority Views in which I have joined, I will now discuss them as they relate to the ability of the U.S. industry to beneficially respond if subject imports had been fairly traded in the U.S. market, albeit a declining market.

Supply conditions determine how producers can respond to an increase in demand for their product. The same supply conditions apply whether the increase in demand is attributable to the total

¹⁹ Id.

²⁰ CR/PR at Table VI-1.

²¹ CR/PR at Table VI-5

²² See Nippon Steel Corp., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

demand in the market or a decline in the price advantage of subject imports leading to a decline in demand for the subject imports.

Total U.S. capacity to produce SRC pipe and tube declined slightly from 1.224 billion pounds in 2007 to 1.123 billion pounds in 2009. However, even taking this drop into consideration, the amount of unused capacity that was available to meet additional demand for U.S. produced SRC pipe and tube increased significantly during the period of investigation. The unused capacity was 443 million pounds in 2007 but had grown to 591 million pounds in 2009. The utilization of domestic industry capacity declined from 63.8 percent in 2007 to only 47.3 percent in 2009.

Other supply conditions that could contribute to the domestic industry's ability to increase domestic sales are the inventory levels, ability to shift from other markets, and ability to shift production from other products to SRC pipe and tube. However, given the extremely high level of unused capacity as evidenced by the very low capacity utilization rate, I find that even without considering these other supply conditions, the domestic industry could easily have met increased domestic orders for SRC pipe and tube from available unused capacity throughout the period of investigation. My analysis of the domestic supply factors indicate that the elasticity of domestic supply is high. This is consistent with the Commission's Final Report which suggests a domestic supply elasticity in the range of 5 to 10.

An analysis of demand conditions considers options or alternatives that are available to purchasers and how they are likely to respond to changes in price. The price that purchasers are able or willing to pay for domestic SRC pipe and tube depends on a number of factors, including the cost share of the SRC pipe and tube in the total cost of production and market value of products that use SRC pipe and tube, purchasers' ability to switch to imports or alternate products in lieu of paying higher domestic prices for SRC pipe and tube.

SRC pipe and tube is mainly used either in plumbing applications or in the manufacture of heating and air conditioning systems. SRC pipe and tube generally makes up a very small share of the total cost of the products that it is used in. Petitioners indicated that copper plumbing represents a few hundred dollars out of the total cost of a \$100,000 house. Petitioners further estimated the cost share of SRC pipe and tube for heating and air conditioning applications to be in the range of [1] to [11] percent.²³ There are, however, some substitutes for SRC pipe and tube, including plastic pipe for plumbing and, to a lesser degree, aluminum and stainless steel tubes for heating and air conditioning applications.²⁴

Considering the low cost share of SRC pipe and tube in the products in which it is used, but also considering the availability of some substitute products in some applications, I find that the price elasticity of demand ranges from moderately inelastic to moderately elastic. This is consistent with the demand elasticity estimate of -0.75 to -1.25 contained in the Commission's Final Report.²⁵

I also look closely at the ability of purchasers to substitute imported SRC pipe and tube for domestic pipe and tube. A high elasticity of substitution between domestic and imported SRC pipe and tube would indicate that purchasers are likely to move to lower priced imports in response to lower prices for those imports. This factor is important in two respects. First, to determine whether any imports, including subject imports, would be an important factor in holding down domestic price increases. Secondly, a high degree of substitutability would indicate whether increases in prices of subject imports would be likely to encourage shifts to domestic production, non-subject imports, or both.

In the prehearing Staff Report, Staff suggested that the substitution elasticities between domestic SRC pipe and tube and subject imports was in the range of 3 to 5. A range of 3 to 5 has been historically

²³ CR at II-13, PR at II-9.

²⁴ CR at II-12 and 13, PR at II-9 and 10.

²⁵ CR at II-24, PR at II-17.

characterized as “high substitutability”.²⁶ Petitioners agreed that the substitutability was “high”, but suggested that the factor range for “high substitutability” was more appropriately 6 to 10. Golden Dragon, on the other hand, suggested that a range of 3 to 5 was consistent with a description of “high substitutability”.

I find that the evidence supports a finding that there is a high degree of substitutability between domestic SRC pipe and tube and subject imports. I use the range of 3 to 5 in my analysis, but also consider the low end of the range suggested by the Petitioners as part of my analysis.

Taking all of the conditions of competition, including the supply, demand and substitution elasticity factors, and the volume and price impact of subject imports, into consideration I find that lower priced subject imports were capturing volumes from domestic SRC pipe and tube during the period of investigation. I further find that there would have been a shift in demand away from subject imports if they had been fairly traded. This shift would have increased demand for both nonsubject imports and domestic SRC pipe and tube.

If prices of subject imports had been increased to reflect a fairly traded value, there would have been a beneficial impact on the domestic industry, either in price increases, volume increases or both. I find that the data supports a finding that the domestic industry would have benefitted through increased prices and increased market share if subject imports had been fairly traded. This would have translated to increased operating profits, increased return on investment, increased cash flows, and increased employment for the domestic industry. Although there would have been some benefits to nonsubject imports they would not have captured all of the benefits of subject imports being traded at fair prices. Therefore, I conclude that the domestic industry would have been better off if the subject imports from China and Mexico had been fairly traded. I find that the subject imports were a substantial factor contributing to the material injury experienced by the domestic industry during the period of investigation, as opposed to a merely being an "incidental, tangential, or trivial" factor.

Consequently, based on the record in these final phase investigations, I find that subject imports had an adverse impact on the condition of the domestic industry during the period of investigation. In particular, I find that the absolute and relative volumes of subject imports, and the increase in those volumes, are significant and that subject imports have undersold the domestic product, and have suppressed domestic prices to a significant degree. The significant volume of subject imports, the pattern of consistent underselling by the subject imports, and suppression of domestic prices caused declines in the domestic producers’ relevant economic factors over the period of investigation and declines in employment factors.

Conclusion

For the reasons stated above, I find that the domestic industry producing SRC pipe and tube is materially injured by reason of cumulated subject imports of SRC pipe and tube from China and Mexico that are sold in the United States at less than fair value.

²⁶ CR at II-24, PR at II-18.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by Cerro Flow Products, Inc. (“Cerro”), St. Louis, MO; Kobe Wieland Copper Products, LLC (“Kobe Wieland”), Pine Hall, NC; Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc. (“Mueller”), Memphis, TN, on September 30, 2009, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of seamless refined copper pipe and tube (“SRC pipe and tube”)¹ from China and Mexico. Information relating to the background of the investigations is provided below.²

Effective date	Action
September 30, 2009	Petition filed with Commerce and the Commission; institution of Commission investigations
October 27, 2009	Commerce’s notice of initiation of antidumping duty investigations
November 24, 2009	Commission’s preliminary determinations
May 12, 2010	Commerce’s preliminary determinations
May 12, 2010	Scheduling of final phase of Commission investigations (75 FR 33330, June 11, 2010)
September 23, 2010	Commission’s hearing ¹
October 1, 2010	Commerce’s final determinations: Mexico (75 FR 60723), China (75 FR 60725)
October 26, 2010	Commission’s vote
November 15, 2010	Commission’s determinations transmitted to Commerce

¹ A list of witnesses that appeared at the hearing is presented in app. B.

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 . . .

¹ See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to these investigations.

² *Federal Register* notices cited in the tabulation are presented in appendix A.

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

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

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

...

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of 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 declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Organization of the Report

Part I of this report presents information on the subject merchandise, 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.

U.S. MARKET SUMMARY

SRC pipe and tube generally involve fluids under pressure, either for conveyance or closed-loop thermal transfer applications. The leading U.S. producers of SRC pipe and tube are Mueller and Cerro, while leading producers of SRC pipe and tube outside the United States include Golden Dragon Precise Copper Tube (“Golden Dragon”) and Zhejiang Hailiang Copper (“Hailiang”) of China and IUSA, S.A. de C.V. (“IUSA”) and Nacional de Cobre of Mexico (“Nacobre”). The leading U.S. importer of SRC pipe and tube from China is Golden Dragon Copper U.S.A. (“GD Copper (U.S.)”), while the leading importer of SRC pipe and tube from Mexico is Cambridge-Lee Industries (“Cambridge-Lee”). Leading importers of SRC pipe and tube from nonsubject countries include Nordyne, LLC (“Nordyne”) and Marubeni America Corporation (“Marubeni”). The leading purchasers include Wolverine Tube Inc. (“Wolverine”) and Carrier Corporation (“Carrier”).

Apparent U.S. consumption of SRC pipe and tube totaled approximately 698 million pounds (\$2.1 billion) in 2009. Currently, 14 firms are known to produce SRC pipe and tube in the United States. U.S. producers’ U.S. shipments of SRC pipe and tube totaled approximately 513 million pounds (\$1.6 billion) in 2009, and accounted for 73.5 percent of apparent U.S. consumption by quantity and 76.0 percent by value. U.S. imports from subject sources totaled approximately 140 million pounds (\$375 million) in 2009 and accounted for 20.0 percent of apparent U.S. consumption by quantity and 17.8 percent by value. U.S. imports from nonsubject sources totaled approximately 45 million pounds (\$132 million) in 2009 and accounted for 6.5 percent of apparent U.S. consumption by quantity and 6.3 percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C. Except as noted, U.S. industry data are based on questionnaire responses of 14 firms that accounted for 95 percent of U.S. production of SRC pipe and tube during 2009. U.S. import data are based on official import statistics of Commerce.³ Data regarding the Chinese industry are based on eight foreign producer questionnaire responses, and data regarding the Mexican industry are based on five foreign producer questionnaire responses, while information with respect to other foreign industries is drawn from questionnaire responses and public sources.

PREVIOUS AND RELATED INVESTIGATIONS

SRC pipe and tube has not been the subject of any prior countervailing or antidumping duty investigations in the United States.

NATURE AND EXTENT OF SALES AT LTFV

On October 1, 2010, Commerce published a notice in the *Federal Register* setting forth its final determinations with regard to its antidumping investigations on SRC pipe and tube from China⁴ and

³ Table C-2 presents U.S. import data for China and Mexico based on the questionnaire responses of 42 firms and U.S. import data for nonsubject sources based on official import statistics of Commerce. Table C-3 presents U.S. industry data, excluding Wolverine, based on questionnaire responses and official import statistics of Commerce.

⁴ *Seamless Refined Copper Pipe and Tube from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 60725, October 1, 2010.

Mexico.⁵ Commerce determined that imports from China and Mexico are being sold, or likely to be sold, in the United States at less than fair value. The weighted-average final dumping margins (in percent *ad valorem*), as reported by Commerce, are presented in the following tabulation:

Exporter	Producer	Margin (percent)
China		
Golden Dragon Precise Copper Tube Group, Inc.	Golden Dragon Precise Copper Tube Group, Inc.	11.25
Zhejiang Hailiang Co., Ltd.; Hong Kong Hailiang Metal Trading Limited; Shanghai Hailiang Copper Co., Ltd.	Zhejiang Hailiang Co., Ltd.; Shanghai Hailiang Copper Co., Ltd.	60.85
Zhejiang Naile Copper Co., Ltd.	Zhejiang Naile Copper Co., Ltd.	36.05
Zhejiang Jiahe Pipes Inc.	Zhejiang Jiahe Pipes Inc.	36.05
Luvata Tube (Zhongshan) Ltd.	Luvata Tube (Zhongshan) Ltd.	36.05
Luvata Tube (Zhongshan) Ltd.	Luvata Alltop(Zhongshan) Ltd.	36.05
Luvata Alltop(Zhongshan) Ltd.	Luvata Alltop(Zhongshan) Ltd.	36.05
Ningbo Jintian Copper Tube Co. Ltd.	Ningbo Jintian Copper Tube Co. Ltd.	36.05
All others		60.85
Mexico		
IUSA S.A. de C.V		24.89
Nacional de Cobre, S.A. de C.V.		31.43
All others		28.16
Source: 75 FR 60723 and 75 FR 60725.		

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of these investigations as follows:

all copper pipe and tube, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter ("OD"), regardless of wall thickness, bore (e.g., smooth, enhanced with inner-grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g.,

⁵ *Seamless Refined Copper Pipe and Tube from Mexico: Final Determination of Sales at Less Than Fair Value*, 75 FR 60723, October 1, 2010.

plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled, bent, wound on spools). The scope of these investigations covers, but is not limited to, copper pipe and tube produced or comparable to the ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-B359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope are all sets of covered products, including “line sets” of copper pipe and tube (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase “all sets of covered products” denotes any combination of items put up for sale that is comprised of merchandise subject to the scope. “Refined copper” is defined as: (1) metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits:

<u>ELEMENT</u>	<u>LIMITING CONTENT PERCENT BY WEIGHT</u>
Ag - Silver	0.25
As - Arsenic	0.5
Cd - Cadmium	1.3
Cr - Chromium	1.4
Mg - Magnesium	0.8
Pb - Lead	1.5
S - Sulfur	0.7
Sn - Tin	0.8
Te - Tellurium	0.8
Zn - Zinc	1.0
Zr - Zirconium	0.3
Other elements (each)	0.3

Excluded from the scope are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to these investigations are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States (HTS). Products subject to these investigations may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085.⁶

Tariff Treatment

SRC pipe and tube is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7411.10.10 (statistical reporting numbers 7411.10.1030 and 7411.10.1090). SRC pipe and tube may also be imported under HTS subheading 7407.10.15 (refined copper hollow profiles) or statistical reporting numbers 7419.99.5050 (which also contains various other products of refined copper and copper alloys), 8415.90.8065 (which also contains parts other than SRC pipe and tube, for heat pumps), and 8415.90.8085 (which also contains parts other than SRC pipe and tube, including those of other air conditioning machinery). Current tariff rates for SRC pipe and tube are presented in appendix D. Imports of SRC pipe and tube from countries (including China) that qualify for normal trade

⁶ *Seamless Refined Copper Pipe and Tube from Mexico: Final Determination of Sales at Less Than Fair Value*, 75 FR 60723, October 1, 2010.

relations are eligible to enter the United States at general duty rates of 1.5 percent ad valorem under HTS subheading 7411.10.10, 3.0 percent under HTS subheading 7407.10.15, or 1.4 percent under HTS subheading 8415.90.80; whereas such imports under HTS subheading 7419.99.50 can enter the United States free of duty. Imports of SRC pipe and tube from Mexico that are originating goods under HTS general note 12 are eligible to enter the United States under these HTS subheadings at the “free” special duty rate, as Mexico is a party to the North American Free Trade Agreement.

THE PRODUCT

Description and Applications

SRC pipe and tube are fabricated products⁷ of high-purity copper,⁸ distinguished by a circular cross section of varying nominal sizes (typically 0.04"–12")⁹ and wall thicknesses.¹⁰ The inner and outer tubing surfaces are either smooth or enhanced (e.g., with grooves, ridges, fins, or gills).¹¹ Depending upon the requirements of industry standards or customers' specifications, additional characteristics can include: outer surface coatings (e.g., paint, plastics, or other coating materials) for corrosion protection or insulation; marking with paint or plastic color coding for product identification; cleaning, pressurizing with nitrogen gas, and capping of each end to assure interior cleanliness; end finishes (e.g., plain, swaged, flared, expanded, crimped, or threaded); and attachments (e.g., plain, capped, or plugged).¹² SRC pipe and tube is available in straight lengths, bent to shape, coiled flat without spools (“pancake coils”), or coiled onto spools.¹³ “Line sets” consist of two different sizes of SRC pipe and tube, a smaller-diameter liquid line (commonly with end finishes) and a larger-diameter suction line (commonly insulated), usually to connect outdoor air conditioners and heat pumps with indoor evaporator units.¹⁴

End-use applications for SRC pipe and tube take advantage of copper’s strength, malleability, ductility (i.e., readily bent or formed), thermal conductivity, resistance to corrosion and fouling, and chemical (e.g., lead-free) purity.¹⁵ SRC pipe and tube applications generally involve fluids under pressure, either for conveyance or closed-loop thermal transfer. Conveyance applications include residential, commercial, institutional, industrial, and municipal water systems, as well as distribution systems for other liquids and gasses. Thermal transfer applications include residential, commercial,

⁷ SRC pipe and tube producers distinguish between “tubes” with smooth ends and joined together by soldering or brazing, versus “pipes” that are threaded. Almost all products considered in these investigations are tubes rather than pipes. Conference transcript, p. 63 (Hansen).

⁸ “Refined copper” contains either 1) at least 99.85 percent by weight of copper or 2) at least 97.5 percent by weight of copper with the content of other elements not exceeding specific percentage weight limits listed in Note 1(a) to Chapter 74, Copper and Related Articles, HTS (2010 Rev. 2). Amendments to petition (October 13, 2009), exhibit D.

⁹ Capillary tube is available with actual outside diameters (“ODs”) less than 0.04". The nominal size of 12" is equivalent to an OD of 12.130" (the upper width limit in the petition scope), or more specifically an actual OD of 12.125" with a tolerance of ± 0.005 ". Counsel for petitioners, e-mail correspondence with Commission staff, November 3, 2009; and amendments to petition (October 16, 2009), exhibit #51.

¹⁰ Petition, p. 12.

¹¹ Petition, p. 10.

¹² Petition, pp. 10, 12-13.

¹³ Petition, pp. 10 and 12.

¹⁴ Petition, p. 10; and amendments to petition (October 13, 2009), p. 4.

¹⁵ Amendments to petition (October 13, 2009), p. 5.

institutional, and industrial heating systems; commercial refrigeration systems (e.g., refrigerated display cases for frozen food in grocery stores); and combined or split-unit air-conditioning systems.¹⁶

“Plumbing” (or “standard”) tubing is commonly produced to various standards of the American Society for Testing and Materials (“ASTM”). The ASTM designations specify the chemical composition, outside diameter, wall thickness, strength, hardness, cleanliness, roundness, marking, and other requirements for SRC pipe and tube, based on end-use applications.¹⁷

“Commercial” (or “industrial”) tubing is produced to either industry standard (e.g., ASTM) specifications or customer (including original equipment manufacturer (“OEM”)) nonstandard specifications, including any surface enhancements (e.g., grooves, ridges, fins, or gills) designed to enhance thermal transfer capabilities.¹⁸ For example, customer specifications are often based on ASTM standards to which are added further requirements such as custom dimensions, temper, or packaging.¹⁹ Petitioners provided examples of customer product specifications ***.²⁰ Individual OEM purchasers, such as Goodman Global (“Goodman”), may require more exacting specifications for the industrial tubing that it purchases compared to plumbing tubing, the latter being regarded more as a commodity product.²¹ Common applications for commercial SRC pipe and tube include refrigeration and heating units; split-system central, room and window, central, and vehicle air conditioners; and chillers and freezers.²²

Applicable ASTM designations for SRC pipe and tube and specific end-use applications are listed in table I-1. Common pipe and tube designations, relevant ASTM standards, and end-use applications are presented in table I-2.

¹⁶ Petition, p. 11.

¹⁷ Petition, pp. 11-12.

¹⁸ Petition, p. 12.

¹⁹ Petitioners’ prehearing brief, p. 14; and conference transcript, pp. 19-20 (Sigloch).

²⁰ Petitioners’ postconference brief, p. 8 and ***.

²¹ Respondent’s prehearing brief (Goodman), p. 4.

²² Petition, p. 12.

Table I-1

SRC pipe and tube: American Society for Testing and Materials (ASTM) standard designations, titles, and specified end-use applications

ASTM designation	Title	Specified end-use applications
B-42	<i>Standard Specification for Seamless Copper Pipe, Standard Sizes</i>	Plumbing and boiler feed lines
B-68	<i>Standard Specification for Seamless Copper Tube, Bright Annealed</i>	Refrigeration, oil lines, gasoline lines, and other applications requiring interior surfaces free of scale and dirt
B-75	<i>Standard Specification for Seamless Copper Tube</i>	General engineering applications
B-88	<i>Standard Specification for Seamless Copper Water Tube</i>	Water and fire-sprinkler systems
B-88M	<i>Standard Specification for Seamless Copper Water Tube (Metric)</i>	Water and fire-sprinkler systems
B-188	<i>Standard Specification for Seamless Copper Bus Pipe and Tube</i>	Electrical conductors
B-251	<i>Standard Specification for Wrought Seamless Copper and Copper-Alloy Tube</i>	Applications listed in ASTM B-68 and ASTM B-75
B-251M	<i>Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tube (Metric)</i>	Applications listed in ASTM B-68 and ASTM B-75
B-280	<i>Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service</i>	Air conditioning and refrigeration units
B-302	<i>Standard Specification for Threadless Copper Pipe</i>	Assembled piping systems
B-306	<i>Standard Specification for Copper Drainage Tube (DWV)</i>	Sanitary drainage, waste, and vent piping
B-359	<i>Standard Specification for Copper and Copper-Alloy Seamless Condenser and Heat Exchanger Tubes With Integral Fins</i>	Surface condensers, evaporators, and heat exchangers
B-743	<i>Standard Specification for Seamless Copper Tube in Coils</i>	Refrigeration, air conditioning, and oil lines
B-819	<i>Standard Specification for Seamless Copper Tube for Medical Gas Systems</i>	Medical gas systems requiring specially cleaned interior surfaces
B-903	<i>Standard Specification for Seamless Copper Tube for Heat Exchanger Tubes with Internal Enhancement</i>	Refrigeration, air conditioning, and other heat exchangers

Source: Petition, p. 10 and exhibits 8-18; amendments to petition (October 13, 2009), p. 3 and exhibits B-C; and amendments to petition (October 16, 2009), exhibits 51-53.

Table I-2

SRC pipe and tube: Designations, color codes, standards, applications, sizes, tempers, and lengths

Designation	Color Code	ASTM	Applications	Commercially available lengths		
				Size	Drawn	Annealed
Type K (thicker walled ¹)	Green	B-88	Water service and distribution Fire protection Solar energy Fuel and fuel oil Heating, ventilation, air conditioning Snow melting Compressed air Natural gas Liquified petroleum gas Vacuums	Straight lengths:		
				¼"–8"	20'	20'
				10"	18'	18'
				12"	12'	12'
				Coils:		
				¼"–1"	—	60'
					—	100'
				1¼"–1½"	—	60'
				2"	—	40'
					—	45'
Type L (intermediate walled ¹)	Blue	B-88	Water service and distribution Fire protection Solar energy Fuel and fuel oil Heating, ventilation, air conditioning Snow melting Compressed air Natural gas Liquified petroleum gas Vacuums	Straight lengths:		
				¼"–10"	20'	20'
				12"	18'	18'
				Coils:		
				¼"–1"	—	60'
					—	100'
				1¼"–1½"	—	60'
				2"	—	40'
					—	45'
				Type M (thinner walled ¹)	Red	B-88
¼"–12"	20'	—				
DWV	Yellow	B-306	Drain, waste, vent Heating, ventilation, air conditioning Solar energy	Straight lengths:		
				¼"–8"	20'	—
ACR/RST	Blue	B-280	Air conditioning Refrigeration Natural gas Liquified petroleum gas Compressed air	Straight lengths:		
				¾"–4½"	20'	(²)
				Coils:		
				1½"–1¾"	—	50'
OXY/MED	(K) Green (L) Blue	B-819	Medical gasses Compressed air Vacuums	Straight lengths:		
				¼"–8"	20'	—

¹ Wall thicknesses differ for Types K, L, and M plumbing pipes having a common nominal diameter, being greater for Type K than for Type L, and lesser for Type M than for Type L.
² Available by special order.

Source: Petition, p. 12; and Copper Development Association (CDA), "Table 1, Copper Tube: Types, Standards, Applications, Tempers, Lengths," *The Copper Tube Handbook*, 2006, p. 20.

Manufacturing Processes²³

The steps for producing SRC pipe and tube can be grouped into three stages: (1) prefabricating, which includes melting, casting, and either extrusion or rolling of rough tubing; (2) intermediate fabrication, consisting of cold drawing of unfinished tubing; and (3) finishing of the SRC pipe and tube.²⁴ The starting material is metallic copper in the form of sections cut from refined cathodes (“primary copper”), scrap (“secondary copper”), or ingots. The exact input mix depends on the cost and availability of the various forms of copper, technical capabilities of the melting furnace, and customer specifications. Primary copper is purchased from copper producers that electrolytically refine blister copper from smelting furnaces into plate-shaped copper cathodes of at least 99.95 percent purity. Secondary copper is a mix of recycled (“old”) scrap bales consisting of copper wire and tubing recovered from demolished or renovated structures and “home or runaround” (“new”) scrap returned from downstream production steps within the SRC pipe and tube mill. Brick-shaped copper ingots, cast from melted-down cathode sections and scrap, are more commonly consumed by pipe and tube mills with smaller-scale melting furnaces with doors that cannot accommodate cathode sections and baled scrap. According to an OEM purchaser, SRC pipe and tube facilities can use a significant share of scrap in their input mix to manufacture plumbing tubing, as the specifications for plumbing tubing are not as exacting as those for industrial tubing.²⁵ Two OEM purchasers, Goodman and Johnson Controls, reported that they require that the industrial tubing they purchase be of high-purity copper or even be manufactured solely from cathode copper.²⁶

Prefabricating

The production process begins with melting and refining of copper in a furnace to produce molten copper. A shaft furnace is adequate to melt high-purity cathodes, new scrap, and ingots into molten copper that does not need further refining. Alternatively, inclusion of less-pure old scrap in the initial furnace charge requires a reverberatory or other hearth-type furnace that allows for further refining of the molten copper. The copper charge is melted at temperatures between 2,300°–2,400° F (above the melting point of copper at 1,981° F) and fire-refined by exposure to oxygen. Most impurities are converted into oxides that are trapped in the surface slag, whereas less-readily oxidized impurities (especially tin and nickel) must be removed by reaction with a special slag compound. The molten copper is stirred with greenwood poles (“poling”), which burn and vaporize to create a stirring action that drives the conversions to completion. The molten copper is sampled periodically to monitor the progress of refining. After the surface slag is skimmed off, the fire-refined melt exceeds 99.9 percent pure copper, similar to fire-refined primary copper smelted from ore. Phosphorous is added to deoxidize the molten copper to produce “phosphorous-deoxidized, high residual phosphorus copper” (DHP, standard designation UNS C12200).²⁷

²³ This section is compiled from the petition, pp. 13-19; conference, petitioners’ exhibits 5-7; field notes, October 14, 2009; Rainer Hergemoeller, “Modern Production Methods for High Volume Copper Tube Manufacturing,” TubeNet; e-mail correspondence of Commission staff with counsel for petitioners, November 2 and 3, 2009; and field notes, July 30, 2010.

²⁴ Conference, petitioners’ exhibits 5-7.

²⁵ Respondent’s prehearing brief (Goodman), p. 4.

²⁶ Respondent’s prehearing brief (Goodman), p. 4; and hearing transcript, pp. 234-235 (Smith).

²⁷ The Unified Numbering System (UNS) for Metals and Alloys is the standard designation and identification system in North America. The “C” indicates “copper” and the following five digits identify the specific pure or alloyed copper. UNS C12200 is the standard designation for DHP that contains a minimum of 99.9 percent copper (including silver) and 0.015–0.040 phosphorous. Copper Development Association (CDA), “CDA UNS Standard
continue...

In the casting step, the molten copper is transferred from the melting/refining furnace to either a holding furnace or tundish (reservoir dam) that is heated to maintain the molten copper at constant temperature for casting. The surface of the molten copper is protected from oxidation by a layer of pulverized graphite. The SRC pipe and tube industry relies on three different technologies for casting molten copper into unfabricated forms. “Continuous casting” and “semi-continuous casting” are both well-established technologies for producing large-diameter solid “logs” or thick-walled hollow “tube rounds.” In the continuous casting process, molten metal flows into vertical graphite-lined cylindrical steel molds, that are water-cooled to quickly solidify the copper, which is gripped and withdrawn from the bottom as more molten copper is poured into the top of the mold. Some mills utilize casting molds with a central water-cooled core to produce a tube round. A moving saw cuts the withdrawn log or tube round into billets, approximately two- to four-feet long, to fit the downstream extrusion or rolling equipment. In the semi-continuous casting process, a water-cooled floor of the mold cavity seals the vertical mold until the molten copper solidifies. More molten copper is poured into the top of the mold at the same rate as the floor is lowered. When the log or tube round reaches the depth of the pit beneath the mold, the mold is (and central core are) raised to allow the log or tube round to be removed from the pit for sawing into shorter solid or hollow billets, respectively.

The billet is preheated (to approximately 1,535° F) before being placed in an horizontal extrusion press. The press includes a ram fitted with a dummy block (that is smaller in diameter than the billet), and a rod slightly smaller in diameter than that of the die opening, if the billet was either cast hollow or already pierced (or alternatively a piercing mandrel, if the billet is still solid).²⁸ The ram forces the heated copper over the rod (or mandrel) and through the die to form a long rough tube. Material that accumulates over the dummy block is removed for remelting. The extruded rough tube is carried along a run-out table to maintain its straightness until it is cool enough to be cleaned and descaled. The ends are removed, and the length is subsequently coiled in preparation for drawing.

A more recent innovation is the “continuous horizontal cast and roll” (cast and roll) process²⁹ that combines horizontal casting and milling, followed by planetary rolling,³⁰ and is capable of producing unfinished tube directly from molten copper.³¹ ***.³² The hollow shell is cut by a saw into 30- to 60-foot long “shells.”³³ ***.³⁴ Both a petitioners’ witness and a respondents’ witness testified at the hearing that the cast and roll process offers the advantage over the extrusion process of reduced production costs, as this prefabrication technology is continuous and involves far fewer production steps, particularly by eliminating the billet reheating and extrusion steps.³⁵ Another advantage of the cast and roll process,

²⁷ ...continue

Designations for Wrought and Cast Copper and Copper Alloys: Introduction,” 2009.

²⁸ If the reheated billet is solid, it is pierced lengthwise with a mandrel (pointed rod) to form a hole through its center, that will eventually become the inner wall of the resulting tubing. Solid billets can be pierced either prior to or concurrent with extrusion. However, according to counsel for petitioners, billet piercing is no longer prevalent among major global producers. Counsel for petitioners, e-mail correspondence with Commission staff, November 2, 2009.

²⁹ ***, on behalf of ***, written submission to the Commission, October 26, 2009, p. 3.

³⁰ Conference, petitioners’ exhibit 5.

³¹ ***, on behalf of ***, written submission to the Commission, October 26, 2009, p. 3.

³² Field notes, July 30, 2010, p. 3.

³³ Conference, petitioners’ exhibit 5.

³⁴ Field notes, July 30, 2010, p. 3.

³⁵ Hearing transcript, pp. 100-101 (Arndt); and p. 197 (Weil).

according to the respondents' witness, is the improved control of wall thickness along the length of the mother tube, compared to the greater variability resulting from the extrusion process.³⁶

At the staff conference in the preliminary phase of these investigations, petitioners' witnesses claimed there are no differences in the resulting product from either the extrusion or the cast and roll processes,³⁷ although producing larger diameters still requires the extrusion method.³⁸ Subsequently, domestic OEM purchaser *** (through counsel), characterized foreign-origin cast and rolled inner-groove SRC pipe and tube as "...produced directly from copper's molten state, thereby resulting in a seamless product unlikely to fail in its chosen applications."³⁹ At the hearing in the final phase of these investigations, a petitioners' witness testified that all plumbing and industrial (including inner-groove) tubing with ODs up to 1 5/8" (the size that comprises the bulk of the market)⁴⁰ sold by Cerro originates from both extrusion or cast and roll technologies interchangeably. The witness further claimed that in either case, Cerro is not constrained by customers specifications to a prefabrication process, for its SRC pipe and tube consistently meets customer specifications, as the finished product manufactured to a given specification will always be the same, no matter which prefabrication technology produces the mother tube.⁴¹ ***.⁴² ***.⁴³ By contrast, a respondents' witness from GD Copper U.S. testified that the more consistent wall thickness of the mother tubes prefabricated by the cast and roll process enables lighter and more consistent wall thickness to be drawn in the finishing stage, and a higher quality finished product.⁴⁴ Another respondents' witness testified that a major reason that OEM purchaser Goodman switched is that the cast and roll process results in the far fewer defects in the finished product than in those originating from the extrusion process.⁴⁵ A respondents' witness from Johnson Controls specifically cited inclusions within domestically available extruded products as the cause of bursting of sidewalls that were unable to withstand the higher internal pressures required as a result of switching refrigerants and stricter energy efficiency standards for air conditioning applications.^{47 48}

³⁶ Hearing transcript, p. 197 (Weil).

³⁷ Conference transcript, p. 52 (Arndt, Hansen, and Sigloch).

³⁸ Conference transcript, p. 52 (Sigloch).

³⁹ *** purchases cast and rolled inner-groove SRC pipe and tube from ***. Specific product quality characteristics reported by the purchaser were the tubing's even and compact structure, precise dimensions, few residuals present on inner surfaces, unique groove shape, increased inner surface area, and greater heat transfer capability. ***, on behalf of ***, written submission to the Commission, October 26, 2009, p. 2.

⁴⁰ Hearing transcript, p. 68 (Arndt).

⁴¹ Cerro supplies OEM customers from either its cast-and-roll plant or one of its extrusion plants, based on market demand, mill production schedules, and destinations for specific product shipments. Hearing transcript, pp. 39 and 76 (Arndt).

⁴² Petitioners' posthearing brief, p. 9; and exhibit 6, ***.

⁴³ Petitioners' posthearing brief, responses to Commission questions, p. A-2.

⁴⁴ Hearing transcript, p. 197 (Weil).

⁴⁵ The cast and roll process also enabled Chinese producer Golden Dragon to manufacture small-diameter SRC pipe and tube requiring less copper per foot of length. Respondents' prehearing brief (Golden Dragon), pp. 11-12.

⁴⁶ Hearing transcript, p. 201 (Topper).

⁴⁷ Hearing transcript, p. 163 (Smith).

⁴⁸ For more details about the changes to the U.S. Environmental Protection Agency's refrigerant and corresponding internal burst pressure requirements for pipes and tubes, and to the U.S. Department of Energy's Seasonal Energy Efficiency Ratings (SEER), *see* respondents' pre-hearing brief (Johnson Controls and Marubeni), pp. 8-9.

The cast and roll process was developed by Outokumpu (now Luvata) and subsequently patented in October 1989.⁴⁹ ***⁵⁰ ***⁵¹ ***⁵² ***⁵³ In February 1991, Chinese producer Golden Dragon obtained licences for Outokumpu's cast and roll technology, initially limited to a single facility in Xiangxiang. Subsequently, Golden Dragon obtained additional licenses in April 2001, for production on a new cast and roll line through March 2003, and in December 2004 for lines in three Golden Dragon facilities⁵⁴ and for its SRC pipe and tube exports to market destinations worldwide,⁵⁵ including cast and roll-based SRC tube (including inner-groove tube) in North America.⁵⁶ Mexican producer IUSA initiated construction of its cast and roll facility in 2007 and started production trials in 2008, but the equipment was manufactured by Danieli & Kalamari rather than by Outokumpu.⁵⁷ Counsel for petitioners reported that petitioners that Golden Dragon's facility in Mexico produces SRC pipe and tube drawn from cast and rolled mother tube.⁵⁸

Intermediate fabrication

The mother tube resulting from the prefabrication stage (irrespective of which of the three different casting technologies) is successively cold drawn through a series of (as many as 14)⁵⁹ steel dies to reduce diameter and wall thickness (by approximately 35 percent per draw) to final dimensions. Before the tube is drawn through each die, a tapered plug mandrel is inserted into one end and that end is crimped to fit through the die and is gripped by the jaws of the drawing machine. As the tube is drawn, the die and mandrel reduce the outer diameter and wall thickness, respectively. The mandrel also imparts either a smooth or enhanced (grooved) surface to the inside of the tube. According to two OEM respondents and the Chinese respondents, industrial tubing generally being ***.⁶⁰

Finishing

The finishing steps depend on the specific type of SRC pipe and tube being produced. Tubing to be sold as straight lengths is passed through a series of straightening rolls that bend the tubing less at each successive roll station so that the tubing emerges straight and can be subsequently cut to length. Tubing to be sold in coils is passed through rolls that impart a bend of the coil radius as the tubing emerges from the coiler. Annealed tubing for thermal transfer applications is passed through a series of rollers and over

⁴⁹ Petitioners' posthearing brief, responses to Commission questions, p. A-1.

⁵⁰ Counsel for petitioners, e-mail correspondence with Commission staff, November 2, 2009; and petitioners' post-hearing brief, responses to Commission questions, p. A-1.

⁵¹ Counsel for petitioners, e-mail correspondence with Commission staff, November 2, 2009; and petitioners' post-hearing brief, responses to Commission questions, pp. A-1 and A-2, and exhibit 5.

⁵² Petitioners' posthearing brief, responses to Commission questions, p. A-1.

⁵³ Counsel for petitioners, e-mail correspondence with Commission staff, November 2, 2009; and petitioners' post-hearing brief, responses to Commission questions, pp. A-1 and A-2, and exhibit 6.

⁵⁴ These three Golden Dragon facilities are located in Xiangxiang, Shanghai and Zuhai.

⁵⁵ Respondents' posthearing brief (Golden Dragon), responses to Commission's questions, p. R-18.

⁵⁶ Hearing transcript, p. 256 (Weil).

⁵⁷ Hearing transcript, pp. 257-258 (Ochoa).

⁵⁸ Petitioners' posthearing brief, responses to Commission questions, p. A-2.

⁵⁹ Field notes, July 30, 2010, p. 3.

⁶⁰ Respondents' posthearing brief (Johnson Controls and Marubeni), p. 6; and respondents' prehearing brief (Golden Dragon), p. 7.

a mandrel to impart enhancements (i.e., fins, ridges, grooves, gills, etc.) to the inner surface. Similar enhancements can also be imparted to the outer surface by additional operations. For some SRC pipe and tube, the ends also can be finished by swaging, flaring, expanding, crimping, or threading.

SRC pipe and tube is sold either as-drawn (“hard”) or annealed (“soft”). SRC pipe and tube (either in straight lengths or coils) to be annealed is passed through either a continuous (long, heated box) furnace or an in-line induction (short, electric-powered) furnace, heated at 1,300° F in a non-reactive gas atmosphere to prevent oxidation of the copper. Some mills utilize bell furnaces for batch annealing in which coils are stacked beneath the bell and heated in a non-reactive atmosphere. Soft (annealed) SRC pipe and tube can be distinguished from hard (as-drawn) by the matte surface finish and lesser stiffness of annealed tubing. Otherwise, annealed and non-annealed SRC pipe and tube are of the same product quality and exhibit the same performance characteristics when in contact with fluids.

Pipe and tube surfaces are cleaned to remove any remaining drawing lubricants or other debris, which is particularly critical for SRC pipe and tube designed to carry medical gases and cooling refrigerants. Outer surfaces can be coated for corrosion protection or insulation, marked or color coded for product identification, and attachments added to the ends, depending upon the requirements of industry standards or customers’ specifications.

The number and extent of finishing processes typically varies between SRC pipe and tube for plumbing versus industrial applications. Two OEM respondents emphasized that the finishing process is extremely important for the vast majority of industrial tubing but not so by comparison for plumbing tubing. For example, unlike plumbing tubing, industrial tubing undergoes ***.⁶¹ Approximately 90–95 percent of all industrial tubing applications use inner-groove tube (IGT), according to a respondents’ hearing witness.⁶² The rationale for grooving the inner surface of SRC pipe and tube is to enhance its heat transfer capability, as the inner grooves provide additional surface area for heat transfer and provide more turbulence that promotes heat transfer.⁶³ Johnson Controls purchases a specially designed IGT from Golden Dragon ***.⁶⁴

According to OEM purchasers, Johnson Controls and Marubeni, IGT and other industrial tubing for HVAC applications are distinguished by three physical characteristics that are generally not applicable to plumbing tubing. First, IGT must meet minimum copper purity (99.84 percent copper cathode) requirements of ASTM B743. Second, because IGT convey refrigerants under pressure, they must meet a minimum bursting pressure of 1,832 pounds per square inch. Third, IGT must be cleaned inside to prevent surface corrosion, by filling with nitrogen to purge out the oxygen and then capping the ends.^{65 66}

⁶¹ Respondents’ posthearing brief (Johnson Controls and Marubeni), p. 6.

⁶² Hearing transcript, p. 234 (Smith).

⁶³ Inner grooving improves the coefficient of two-phase flow by a factor of 2.0–2.5, depending on the design, and also provides for better thermal-resistance balance between the air and refrigerant sides of the IGT. Respondent’s posthearing brief (Goodman), appendix 1, pp. 1-12.

⁶⁴ Respondents posthearing brief (Johnson Controls), answers to Commissioners’ questions, p. 2.

⁶⁵ Counsel for petitioners testified that certain OXY/MED and ACR tubing is also cleaned and capped, but counsel for the two OEMs claims that these products are industrial rather than plumbing tubing. Hearing transcript, p. 264 (Levy); and respondents’ posthearing brief (Johnson Controls and Marubeni), footnote 4, p. 4.

⁶⁶ Respondents’ posthearing brief (Johnson Controls and Marubeni), pp.2-3; and hearing transcript, pp. 234-235 (Smith).

DOMESTIC LIKE PRODUCT ISSUES

In the preliminary phase of these investigations, the Commission defined a single domestic like product, coterminous with the scope of these investigations, consisting of all SRC pipe and tube.⁶⁷ Respondents claimed two distinctly different types of and market segments for SRC pipe and tube – plumbing versus industrial^{68 69} – but did not contest petitioners’ proposal of a single domestic like product in the preliminary phase of these investigations.⁷⁰

In the final phase of these investigations, the petitioners claimed that “there has been no change in the record of these final investigations that would warrant any different conclusions” other than a single domestic like product.⁷¹ Two OEM purchasers, Johnson Controls and Marubeni, argued that “a clear dividing line exists between industrial tubing and plumbing tubing,” and that the Commission should find two separate domestic like products,⁷² and maintained that the statutory standard has been met for separating out plumbing versus industrial SRC pipe and tube.⁷³ Another OEM purchaser, Goodman, took no position on the like-product issue,⁷⁴ but stated that there are two different market segments.⁷⁵ Both the Chinese and Mexican respondents also initially argued that the Commission should find two distinct product segments,⁷⁶ but subsequently took no position on the like-product issue.⁷⁷ The Chinese respondents noted further that they are “not arguing for two distinct like products but submit{s} that the record strongly supports market segmentation between industrial and plumbing tube.”⁷⁸ Mexican respondents continued to claim definite market segmentation between plumbing versus industrial tubing.⁷⁹ Luvata, an importer of SRC pipe and tube, noted that all respondent’s hearing witnesses agreed that plumbing and industrial tubing are separate market segments.⁸⁰

In light of the Commission’s stated intention to solicit additional information about the distinctions between plumbing and industrial tube,⁸¹ the Commission requested that U.S. producers report

⁶⁷ *Seamless Refined Copper Pipe and Tube from China and Mexico, Investigation Nos. 731-TA-1174-1175 (Preliminary)*, USITC Publication 4116, November 2009, p. 9.

⁶⁸ Conference transcript, p. 126 (O’Brien); and respondents’ postconference briefs, (Golden Dragon) pp. 5-81; and (Hailiang) pp. 3 and 8.

⁶⁹ Respondents’ postconference brief (IUSA and Nacobre), pp. 5-7.

⁷⁰ *Seamless Refined Copper Pipe and Tube from China and Mexico, Investigation Nos. 731-TA-1174-1175 (Preliminary)*, USITC Publication 4116, November 2009, p. 9.

⁷¹ Petitioners’ posthearing brief, responses to Commission questions, p. A-34.

⁷² Respondents’ prehearing brief (Johnson Controls and Marubeni), pp. 1 and 7.

⁷³ Respondents’ posthearing brief (Johnson Controls and Marubeni), pp. 2 and 8.

⁷⁴ Hearing transcript, p. 239 (Paretzky), and respondents’ prehearing brief (Goodman), pp. 2 and 5.

⁷⁵ Respondent’s posthearing brief (Goodman), appendix 1, p. 1-23.

⁷⁶ Respondents’ prehearing brief (Golden Dragon), p. 2; and respondents’ prehearing brief (IUSA, Nacobre, Cambridge-Lee, and Copper and Brass International), p. 9.

⁷⁷ Hearing transcript, p. 239 (O’Brien); and hearing transcript, p. 239 (Ryan).

⁷⁸ Respondents’ post-hearing brief (Golden Dragon), responses to Commission’s questions, p. R-13.

⁷⁹ Hearing transcript, p. 240 (Ryan); and respondents’ post-hearing brief (IUSA, Nacobre, Cambridge-Lee, and Copper and Brass International) did not further address the domestic like product issue.

⁸⁰ Respondent’s post-hearing brief (Luvata), p. 7.

⁸¹ *Seamless Refined Copper Pipe and Tube from China and Mexico, Investigation Nos. 731-TA-1174-1175 (Preliminary)*, USITC Publication 4116, November 2009, p. 9.

their production of plumbing and industrial SRC pipe and tube separately⁸² and that U.S. importers report their imports of plumbing and industrial SRC pipe and tube from China and Mexico separately as well. These data are presented in Appendix E. Additionally, the Commission requested comments from U.S. producers and U.S. importers regarding the comparability of plumbing and industrial SRC pipe and tube, which are presented in Appendix F.

DOMESTIC INDUSTRY ISSUES

In the preliminary phase of these investigations, no party argued for the exclusion of any producer as a related party and the Commission defined the domestic industry to include all domestic producers of SRC pipe and tube. However, the Commission did note that it intended to revisit the question of whether appropriate circumstances exist to exclude any related party, particularly Wolverine *** and Cambridge-Lee ***.⁸³ Data regarding *** are presented in *Part III*. No party has argued for the exclusion of any producer as a related party in the final phase of these investigations.⁸⁴

⁸² Based on the questionnaire responses from U.S. producers, the following firms produce only plumbing tube: ***; the following firms produce only industrial tube: ***; and the following firms produce both: ***.

⁸³ *Seamless Refined Copper Pipe and Tube from China and Mexico, Investigation Nos. 731-TA-1174-1175 (Preliminary)*, USITC Publication 4116, November 2009, p. 12.

⁸⁴ Petitioners argue that the Commission should not exclude either Cambridge-Lee or Wolverine because: 1) no party has objected to the inclusion of either U.S. producer in the domestic industry; 2) Cambridge-Lee's ***; 3) ***; 4) excluding Wolverine from the domestic industry would actually skew the Commission's analysis of the condition of the domestic industry ***; and 5) Wolverine's ***. Petitioners' posthearing brief, p. 20 in Responses to Commission Questions.

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

U.S. MARKET CHARACTERISTICS

As described in more detail in *Part I*, SRC pipe and tube is generally used for fluids under pressure, either for conveyance or in a closed loop for thermal transfer.¹ Conveyance applications include water applications, as well as distribution systems for other liquids and gases while thermal transfer applications include heating systems, commercial refrigeration systems (such as grocery store refrigerated cases), and combined or split-unit air conditioning systems of all sizes.²

U.S. produced SRC pipe and tube made up 73.5 percent of the market in terms of volume in 2009; down from 76 percent in 2007. In 2009, imports from China made up about 13.1 percent of the market, imports from Mexico made up about 6.9 percent of the market compared to 7.6 percent for each in 2007.

The three petitioners (Cerro, Kobe Weiland, and Mueller) produced about *** of U.S. production and two importers (Cambridge-Lee and GD Copper) imported about *** of U.S. imports from subject sources in 2009. GD Copper imported just over *** of U.S. imports from China, while Cambridge-Lee imported almost *** of U.S. imports from Mexico.

SRC pipe and tube is typically sold either as plumbing tube or industrial tube. Most U.S. producers and importers reported making sales of plumbing tube on a spot basis. The largest U.S. producers and importers of product from China reported making most of their sales of industrial tube using short- or long-term contracts, while the largest importer of product from Mexico reported making all its sales of industrial tube on a spot basis.

All 10 responding U.S. producers and 11 of 33 responding importers reported selling SRC pipe and tube nationally. Twelve of the remaining responding importers reported selling to the Southeast, 11 reported selling to the Southwest, 7 reported selling to the Pacific Coast, 6 reported selling to the Northeast, 8 reported selling to the Midwest, and 1 reported selling to the Mountain Region.

Forty-four firms responded to the purchaser's questionnaire and indicated that they have purchased SRC pipe and tube since 2007. Twenty firms reported being distributors, 23 reported being end users, and one firm reported being a retailer.³

CHANNELS OF DISTRIBUTION

Plumbing tube is sold to wholesalers, retailers, and distributors who in turn sell it to different end users, while industrial tube is generally sold to OEMs such as Carrier, Trane, and York.⁴

A majority of U.S.-produced and SRC pipe and tube imported from Mexico were sold to distributors (except in interim 2010, when the majority of imports from Mexico were sold to end users), while a majority of imports from all sources except for Mexico were usually sold to end users. As shown in table II-1, in each full-year period, 57.5 to 60.6 percent of shipments of U.S.-produced SRC pipe and tube were to distributors, with the rest of the shipments to end users. The share of reported U.S.

¹ Petition, p. 11.

² Ibid.

³ The distributors include one firm that indicated it was a "buy-sell agent" and one that indicated that it was a plumbing/HVAC wholesaler. The end users included a redraw copper tube mill, a HVAC OEM, a supplier of HVAC equipment to OEMs, a contractor installing complete line sets, a manufacturer of air-conditioning and refrigeration coils, a "manufacturer of purchased tube."

⁴ Petitioners' postconference brief, p. 20; and Conference transcript, p. 25 (J. Hansen), p. 97 (Weil).

Table II-1

SRC pipe and tube: U.S. producers' and importers' U.S. shipments of SRC pipe and tube, by sources and channels of distribution, 2007-09, and January-June 2010

Item	Period			
	2007	2008	2009	Jan.-June 2010
Share of reported shipments (percent)				
Domestic producers' U.S. shipments of SRC pipe and tube to:				
Distributors	60.6	57.5	58.8	55.6
End users	39.4	42.5	41.2	44.4
U.S. importers' U.S. shipments of SRC pipe and tube from China:				
Distributors	5.1	6.1	56.9	6.3
End users	94.9	93.9	43.1	93.7
U.S. importers' U.S. shipments of SRC pipe and tube from Mexico:				
Distributors	83.6	80.5	69.8	24.7
End users	16.4	19.5	30.2	75.3
U.S. importers' U.S. shipments of SRC pipe and tube from all other countries to:				
Distributors	22.1	24.2	36.0	47.0
End users	77.9	75.8	64.0	53.0
Note.—Data for domestic producers include only U.S. commercial shipments.				
Source: Compiled from data submitted in response to Commission questionnaires.				

shipments of U.S. imports from Mexico made to distributors decreased from 83.6 percent in 2007 to 69.8 in 2009. The share of reported U.S. shipments of U.S. imports from China made to end users decreased from 94.9 percent in 2007 to 43.1 percent in 2009,⁵ while the share of reported U.S. shipments of U.S. imports from countries other than China and Mexico made to end users decreased from 77.9 percent in 2007 to 64.8 percent in 2009.

⁵ Most of this change was due to importer ***, which started selling imports of SRC pipe and tube from China in 2009 through its distributor ***. Between 2009 and 2010, *** and now sells directly to end users.

SUPPLY AND DEMAND CONSIDERATIONS

Supply

U.S. Supply

Based on available information, U.S. SRC pipe and tube producers have the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced SRC pipe and tube to the U.S. market. The main contributing factors to the high degree of responsiveness of supply are the availability of unused capacity and the ability to produce alternate products; supply responsiveness is constrained somewhat by a limited ability to ship to alternate markets and the somewhat limited ability to use inventories to increase shipments.

Industry capacity

U.S. producers' capacity utilization decreased from 63.8 percent in 2007 to 47.3 percent in 2009. This level of capacity utilization indicates that U.S. producers have unused capacity with which they could increase production of SRC pipe and tube in the event of a price change.

Alternative markets

Exports by U.S. producers, as a share of total shipments, increased from 4.2 percent in 2007 to 5.7 percent in 2009. This level of shipments to alternative markets indicates that U.S. producers have a somewhat limited ability to divert shipments to or from alternative markets in response to changes in the price of SRC pipe and tube.

Inventory levels

The ratio of end-of-period inventories to total shipments for U.S. producers increased from 6.7 percent in 2007 to 7.0 percent in 2009. This level of inventories indicate that U.S. producers are somewhat limited in their ability to use inventories as a means of increasing shipments of SRC pipe and tube to the U.S. market.

Production alternatives

Five of 11 responding U.S. producers indicated that they produce products other than SRC pipe and tube on the equipment and machinery that is used to produce SRC pipe and tube. Specifically, these producers indicated that they produce brass, aluminum, and copper nickel tube; copper wire, round and flat wire; and billets.

Supply constraints

Four of 11 responding U.S. producers indicated that they had refused, declined, or had been unable to supply SRC pipe and tube at some time since January 2007. *** indicated that in the spring of 2008 it had declined new customers because of "unusual demand" and also as a result of the spike in commodity prices. *** indicated that during periods of high seasonal demand, delivery times were extended sporadically for a few customers, and also that it delayed production and shipments for some customers in 2010 ***. Two producers, ***, reported extended lead times following publication of Commerce's preliminary antidumping determination due a sudden increase in orders to which they were

not immediately able to respond. *** reported placing customers on allocation and declining sales opportunities due to ***.

Subject Imports from China

Based on available information, Chinese producers have the ability to respond to changes in demand with large changes in the quantity of shipments of SRC pipe and tube to the U.S. market.⁶ The main contributing factors to the high degree of responsiveness of supply are the availability of unused capacity, the existence of alternate markets, and some ability to produce alternate products; supply responsiveness is constrained by the somewhat limited ability to use inventories.

Industry capacity

Chinese producers' capacity utilization decreased from 88.1 percent in 2007 to 87.8 percent in 2009. This level of capacity utilization indicates that Chinese producers have unused capacity with which they could increase production of SRC pipe and tube in the event of a price change.

Alternative markets

Shipments of SRC pipe and tube from China to markets other than the United States (both exports to alternative markets and shipments to the home market) decreased slightly from approximately 91.4 percent of total shipments in 2007 to 91.1 percent in 2009. This level of shipments to alternative markets indicate that subject producers in China have the ability to divert shipments to or from their home market and alternative markets in response to changes in the price of SRC pipe and tube.

Inventory levels

The ratio of end-of-period inventories to total shipments for the Chinese producers decreased from 2.3 percent in 2007 to 1.9 percent in 2009. This level of inventories indicate that Chinese producers have a somewhat limited ability to use inventories as a means of increasing shipments of SRC pipe and tube to the U.S. market.

Production alternatives

Only one (***) of eight responding Chinese producers indicated that it produces products other than SRC pipe and tube on the equipment and machinery that is used to produce SRC pipe and tube. ***.

Supply constraints

Importer *** indicated that it has refused, declined, or been unable to supply SRC pipe and tube because it can not compete with pricing by domestic mills. Importer *** reported that strong and growing demand in China has fully utilized its capacity for much of 2010. As a result of this growing demand in China and in third-country markets, foreign producer *** projects that exports to the United States will fall from *** million pounds in 2009 to *** million pounds in 2010 and further to *** million pounds in 2011.

⁶ Eight Chinese producers responded to the foreign producers' questionnaire. These responses are believed to account for approximately *** of Chinese export shipments to the United States.

Subject Imports from Mexico

Based on available information, Mexican producers have the ability to respond to changes in demand with large changes in the quantity of shipments of SRC pipe and tube to the U.S. market.⁷ The main factors contributing to the high degree of responsiveness of supply are the availability of unused capacity and the existence of alternate markets; supply responsiveness is constrained by the somewhat limited ability to use inventories and an inability to produce alternate products.

Industry capacity

Mexican producers' capacity utilization decreased from *** percent in 2007 to *** percent in 2009. This level of capacity utilization indicates that Mexican producers have unused capacity with which they could increase production of SRC pipe and tube in the event of a price change.

Alternative markets

Shipments of SRC pipe and tube from Mexico to markets other than the United States (both exports to alternative markets and shipments to the home market) increased from approximately *** percent of total shipments in 2007 to *** percent in 2009. This level of shipments indicates that Mexican producers have the ability to divert shipments to or from its home market and alternative markets in response to changes in the price of SRC pipe and tube.

Inventory levels

The ratio of end-of-period inventories to total shipments for Mexican producers increased from *** percent in 2007 to *** percent in 2009. This level of inventories indicates that Mexican producers have a limited ability to use inventories as a means of increasing shipments of SRC pipe and tube to the U.S. market.

Production alternatives

None of the four responding Mexican producers indicated that they produce products other than SRC pipe and tube on the equipment and machinery that is used to produce SRC pipe and tube.

Supply constraints

Importer *** indicated that it has refused, declined, or been unable to supply SRC pipe and tube because it can not compete with pricing by domestic mills. *** indicated that it has refused many orders due to its inability to compete with U.S. producers' prices, and inability to meet order requirements on a timely basis. *** reported that supply constraints are common in the copper tube industry, but that the imposition of antidumping duties could lead to an increased number of heat exchangers being manufactured in lower cost countries, and relocation of SRC pipe and tube facilities to Mexico.

⁷ Five Mexican producers responded to the foreign producers' questionnaire. These responses are believed to account for approximately *** of Mexican export shipments to the United States.

Demand

Based on available information, it is likely that any change in the price level of SRC pipe and tube will result in a moderate change in the quantity of SRC pipe and tube demanded. The main contributing factors are substitute products and the small cost share of SRC pipe and tube in its end-use products.

Demand Characteristics

SRC pipe and tube is typically sold either as plumbing tube or industrial tube. “Plumbing tube” is typically manufactured according to ASTM standards and used in construction. “Industrial tube” may be similarly produced to industry standard specifications or may be produced to OEM specification and is typically used in HVAC systems.

U.S. demand for SRC pipe and tube depends on demand for construction, air conditioning and refrigeration, and industrial manufacturing and the price of substitute goods such as PEX tubing.⁸ U.S. producer Mueller indicates that new home construction plays an important role in demand for both plumbing and industrial SRC pipe and tube, whereas much of the demand for plumbing tube is derived from nonresidential construction rather than residential construction.⁹ Kobe Wieland also notes that the warmer the weather is early in the year, the better the air conditioning season will be; thus increasing demand in the replacement market, which it estimates makes up about 35 to 65 percent of the market for SRC pipe and tube.¹⁰ U.S. producer and importer Cambridge-Lee indicated that it is difficult to estimate demand for SRC pipe and tube from housing starts because of the substitution of plastic in residential construction; but nonresidential construction is a more reliable indicator of changes in demand because SRC pipe and tube is typically used instead of substitutes.¹¹ Importer JMF indicated that the relatively cool summers over the last two or three years has decreased demand for SRC pipe and tube.¹² Importer GD Copper (U.S.) estimated that replacement units make up 60 to 70 percent of the market for air conditioning units (which use SRC pipe and tube and do not use plastic tubing).¹³

Respondent Hailiang indicated that demand for both the plumbing and industrial pipe segments rely on commercial and residential construction.¹⁴ Dayco, Homewerks, JMF, and Marubeni indicated that the retail segments of the plumbing market have been impacted by the recession less than the wholesale segment because many homeowners chose to remodel instead of purchasing new homes.¹⁵ They also stated that sales of SRC pipe and tube for HVAC in the industrial market for nonresidential buildings has fared better than sales of SRC pipe and tube for HVAC in residential buildings.¹⁶

The real value of total construction decreased by 36 percent between January 2007 and August 2010 (see figure II-1). The real value of residential construction decreased by 60 percent between

⁸ Petition, p. 38. PEX is a cross-linked polyethylene tubing that is sold in straight lengths or coils. Conference transcript, p. 141 (M. Hansen).

⁹ Conference transcript, pp. 52-53 (J. Hansen).

¹⁰ Conference transcript, pp. 53-54 (Sigloch).

¹¹ Conference transcript, pp. 146-147 (Kerins).

¹² Conference transcript, p. 147 (M. Hansen).

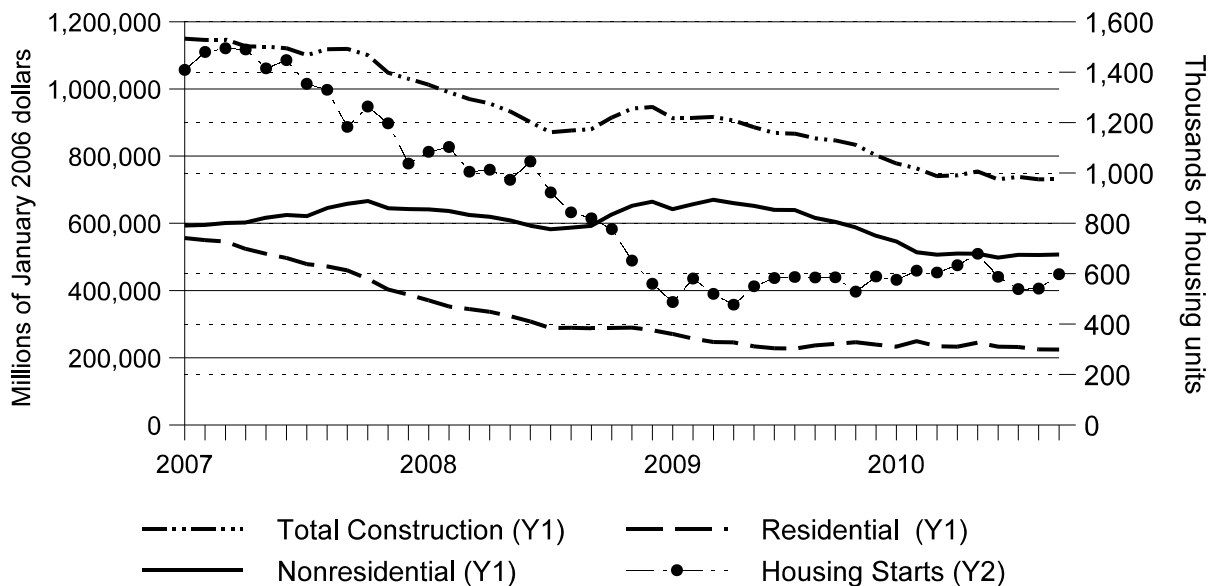
¹³ Conference transcript, pp. 147-149 (Weil).

¹⁴ Respondent Hailiang’s postconference brief, p. 8.

¹⁵ Respondents Dayco, Homewerks, JMF, and Marubeni’s postconference brief, p. 5.

¹⁶ *Ibid*, p. 6.

Figure II-1
Construction spending and housing starts: Total, residential, and nonresidential construction spending in the United States, seasonally adjusted annual rate, deflated by the producer price index; and seasonally adjusted housing starts, monthly, January 2007-August 2010



Note: Expenditures on private residential improvements to rental, vacant, and seasonal properties are not included in the construction spending data. Expenditures are deflated by the producer price index for intermediate goods (seasonally adjusted).

Source: U.S. Census Bureau, Manufacturing, Mining and Construction Statistics, Construction Spending. <http://www.census.gov/const/www/c30index.html#>, and Bureau of Labor Statistics (retrieved October 5, 2010).

January 2007 and August 2010, while the real value of nonresidential construction decreased by 15 percent. Also, seasonally adjusted housing starts decreased by 58 percent between January 2007 and August 2010.

Ten of 11 responding U.S. producers, 29 of 38 responding importers, and 29 of 39 purchasers indicated that demand for SRC pipe and tube in the United States has decreased since 2007. *** indicated that in 2007, there was a HVAC SEER (Seasonal Energy Efficiency Ratio) change which increased copper consumption in North American, and that an increase in housing starts driving increased demand, but that due to economic downturn beginning in late 2008, demand for copper tubing began to decrease.

Three of seven responding U.S. producers, six of 22 responding importers, and five of 13 responding purchasers indicated that demand for SRC pipe and tube decreased outside the United States since 2007. Four importers and one purchaser indicated that demand outside the United States increased, and one importer and one purchaser reported that demand increased for industrial tube, but decreased for plumbing tube. One producer, five importers, and three purchasers indicated that demand outside of the United States fluctuated and the remaining two producers, six importers, and three importers indicated that there was no change in demand. Several responding firms attributed decreases in demand to the global economic downturn and several firms attributed increases in demand to increased demand in China and developing countries. Importer *** indicated that the primary market for copper plumbing tube outside the United States is Europe, where the market has exhibited increased use of PVC tube and a decline in construction and that the primary markets for industrial tube outside the United States are China and other developing nations.

Business Cycles

Nine of 11 responding U.S. producers, 20 of 39 responding importers, and 18 of 38 purchasers indicated that the SRC pipe and tube market is subject to distinctive business cycles or conditions of competition. Several U.S. producers and importers indicated that the SRC pipe and tube market is subject to both seasonal and business cycles and that the business cycle is influenced by the construction market. U.S. producer Mueller indicated that residential construction typically peaks in the spring and early summer months, and, to a lesser extent, so does commercial construction because of the winter weather discourages construction starts in the northern tier of states.¹⁷ Seven of nine responding U.S. producers and 15 of 19 responding importers indicated that these distinctive business cycles or conditions of competition for SRC pipe and tube have changed since January 2007. Importers *** indicated that the increase in government energy efficiency standards increased demand above the typical business cycle in 2006 and 2007 and altered the anticipated seasonality. Only four of 34 responding purchasers indicated that the emergence of new markets for SRC pipe and tube since 2007 has affected the business cycles or conditions of competition distinctive to the SRC pipe and tube market. Purchaser *** indicated that increasing incomes in emerging economies in Asia, India, Latin America, and Eastern Europe have enabled consumers to purchase air conditioning in much greater volume than in the past.

Substitute Products

Eight of 11 responding U.S. producers, 19 of 31 responding importers, and 28 of 41 responding purchasers indicated that there are substitutes for SRC pipe and tube. The most frequently cited substitutes were plastic tube (such as PEX or PVC), aluminum tube, and stainless steel tube. Specific products listed as substitutes by purchasers include PEX (14 purchasers), PVC/CPVC (12 purchasers), aluminum tube (nine purchasers), stainless tube (four purchasers), plastic tube (three purchasers), aluminum microchannel tube (four purchasers), welded seamless copper tube (two purchasers), and brass and steel tube (one purchaser each).

Both petitioners and respondents indicate that demand for SRC pipe and tube has decreased because of substitution of other types of tubing. Generally this decrease has been attributed to the increase in the price of copper relative to other materials such as plastic and aluminum. The COMEX price of copper has fluctuated since 2007, increasing by 14 percent between January 2007 and June 2010.¹⁸

Importer GD Copper (U.S.) believes that the main reason that substitutes for tube have developed is that the price of copper has increased dramatically in recent years. It indicated that although the switch to aluminum requires certain tradeoffs for air conditioning manufacturers, such as heat transfer efficiency, OEMs have been willing to substitute aluminum tubing given the high price of copper. It also noted that plastic tube has been used in indoor plumbing applications because there is no concern of heat transfer complications and because PEX tube installation is less expensive since it does not require the same technical skill as copper tube installation.¹⁹ Purchaser *** indicated that, given the

¹⁷ Conference transcript, pp. 54-55 (M. Hansen).

¹⁸ Platt's Metal Week and USGS.

¹⁹ Conference transcript, pp. 97-100 (Weil). Hearing transcript, p. 172 (Rogers).

application of inner groove tube in its “Building Efficiency” products, it is not able to substitute other materials such as plastic or steel.²⁰

Petitioners indicate that because investment in nonresidential structures and custom built residential structures has held up better than for corporate-built single-family residential structures (such as by Ryan Homes) and because the substitution of plastic tube for SRC pipe and tube in corporate-built single-family residential structures had largely occurred by the end of 2006, increased substitution of plastic tube was not an issue during the POI.²¹ Dayco, Homewerks, JMF, and Marubeni indicate that the share of new housing starts using copper tube for their water distribution system fell from *** percent in 2006 to *** percent in 2008 for single-family detached homes and from *** percent in 2006 to *** percent in 2008 for multifamily homes, while the share of housing starts using PEX tube increased for both single-family and multifamily homes.²²

Cost Share

SRC pipe and tube generally makes up a very small share of the final cost of construction, although it may make up a larger share of plumbing systems.²³ Petitioners indicated that copper plumbing represents a few hundred dollars out of the total cost of a \$100,000 house and that there was considerable variation in the amount of copper tube in a large chiller unit as compared to a small air conditioner.²⁴ Petitioners estimated the cost share of SRC pipe and tube for HVAC applications to be in the range of *** to *** percent.²⁵ Importer GD Copper (U.S.) indicated that in a residential air conditioner, the cost share of SRC pipe and tube will be on the low side and be larger for large chillers.²⁶

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported SRC pipe and tube depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a moderate to high degree of substitutability between domestically produced SRC pipe and tube and SRC pipe and tube imported from China and Mexico.

Factors Affecting Purchasing Decisions

Petitioners indicated that SRC pipe and tube producers compete primarily on the basis of price because SRC pipe and tube produced to a given specification is highly interchangeable whether it is manufactured in the United States, Mexico, or China.²⁷ Importer Homewerks indicates that it competes on the basis of a superior product range and services and not necessarily lower price, offering over 80

²⁰ ***, written submission to the Commission, October 26, 2009, p. 5.

²¹ Petitioners’ postconference brief, exhibit 14, response to question 9.

²² Respondents Dayco, Homewerks, JMF, and Marubeni’s postconference brief, p. 5.

²³ Conference transcript, p. 56 (J. Hansen).

²⁴ Petitioners’ postconference brief, exhibit 14, response to question 8 and conference transcript, p. 56 (J. Hansen) and p. 55 (Sigloch).

²⁵ Petitioners’ postconference brief, exhibit 14, response to question 8.

²⁶ Conference transcript, p. 135 (Weil).

²⁷ Conference transcript, pp. 9, 16 (Levy).

different copper tube items to retail customers, smaller case pack sizes than domestic manufacturers use, and being the first to offer security tagging and consumer friendly labeling and packaging.²⁸ Importer JMF indicated that it can not compete on the basis of price with domestic producers, so it attempts to out-service the copper tube mills by usually shipping its SRC pipe and tube in one day and within two days 98 percent of the time.²⁹ Purchaser *** indicated it does not base its decisions on price but, rather, on the performance parameters and capability of the materials and products that it purchases.³⁰ It purchases product that is made from a cast and roll process and has not found SRC pipe and tube produced using other methods to be of the same quality and reliability.³¹ Petitioners indicated that there is no difference between SRC pipe and tube produced from the cast and roll and extrusion processes.³²

Purchasers report that they consider a variety of factors to be important when selecting among competing SRC pipe and tube suppliers including availability, price, and quality. As indicated in table II-2, price was named by 16 of 42 responding purchasers as the number one factor generally considered in deciding from whom to purchase SRC pipe and tube, as the number two factor by 11 responding purchasers, and as the number three factor by 11 other responding purchasers. Also, as indicated in table II-3, 37 of 43 responding purchasers indicated that price was a “very important” factor in their purchase decisions for SRC pipe and tube. Twenty of 41 responding purchasers indicated that the lowest-priced SRC pipe and tube “sometimes” will win a sale, 15 reported “usually,” five reported “always,” and three reported “never.”

Quality was named by 14 of 42 responding purchasers as the number one factor generally considered in deciding from whom to purchase SRC pipe and tube, the number two factor by 10 purchasers, and the number three factor by seven purchasers. Also, as indicated in table II-3, 40 of 42 responding purchasers indicated that quality meeting industry standards was a “very important” factor in their purchase decisions for SRC pipe and tube, and 21 of 42 responding purchasers indicated that quality exceeding industry standards is a “very important” factor in their purchase decisions. Quality characteristics that purchasers consider when determining the quality of SRC pipe and tube include meeting or exceeding specifications; consistency of tubing; absence of leaks, defects, or material impurities; cleanliness; packaging; dimensional consistency; and heat transfer efficiency.

Twenty-six of 44 responding purchasers reported that they require their suppliers to become certified or pre-qualified for all, or nearly all, of their purchases of SRC pipe.³³ Purchasers reported that it can take from days to a year to qualify a new supplier; the average time reported was 90 days. Eight of 34 responding purchasers indicated that since 2007, certain domestic or foreign producers failed in their attempts to certify or qualify their SRC pipe and tube or have lost their approved status. Specifically, two purchasers reported that U.S.-produced product from Luvata did not meet quality standards. One firm stated that one particular size from Wolverine failed to meet quality and performance standards. Another purchaser reported that product from a mill in China was either too soft or too hard for their production process. One firm reported that product from Mexico failed all tests. Purchasers also listed SRC pipe and tube sourced from importer CMC and a specific product from Malaysia as failing to qualify.

²⁸ Conference transcript, pp. 80-81 (Altman).

²⁹ Conference transcript, pp. 168-169 (M. Hansen).

³⁰ ***, written submission to the Commission, October 26, 2009, p. 2.

³¹ *Ibid.*, p. 2.

³² Conference transcript, p. 52 (Arndt, J. Hansen, Sigloch). Kobe Wieland indicated that some sizes cannot be produced with cast and roll methods, but that for all sizes that can be produced with both methods, there is no difference. *Ibid.*, p. 52 (Sigloch).

³³ In addition, one purchaser indicated that it requires new suppliers to fill out a quality form.

Table II-2
SRC pipe and tube: Ranking of factors used in purchasing decisions, as reported by unrelated U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	5	8	11
Delivery ¹	0	6	6
Location of manufacturer	0	1	0
Price	16	11	11
Prearranged contracts	1	0	0
Product range	0	0	2
Rebate programs	0	0	1
Quality ²	14	11	7
Traditional/approved supplier	4	3	1
¹ Includes on time performance, freight policy, and lead times. ² Includes meets specifications and performance. Source: Compiled from data submitted in response to Commission questionnaires.			

Table II-3
SRC pipe and tube: Importance of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	40	3	0
Delivery terms	23	17	2
Delivery time	36	7	0
Discounts offered	20	16	6
Extension of credit	17	15	10
Price	37	6	0
Minimum quantity requirements	10	20	12
Packaging	8	27	7
Product consistency	38	4	0
Quality meets specifications	40	2	0
Quality exceeds specifications	21	19	2
Product range	9	25	8
Reliability of supply	38	4	0
Rebate program	9	7	26
Technical support	14	20	8
U.S. transportation costs	14	18	10

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

Forty of 43 responding purchasers indicated that availability was a “very important” factor in their SRC pipe and tube purchasing decisions. Five of 42 responding purchasers reported that availability was the most important factor in their purchasing decisions, eight purchasers reported it was the number two factor, and 11 purchasers reported it was the number three factor. Reliability of supply was cited as a “very important” factor by 38 of 42 responding purchasers.

Comparison of U.S.-Produced and Imported SRC Pipe and Tube

In order to determine whether U.S.-produced SRC pipe and tube can generally be used in the same applications as imports from China and Mexico, U.S. producers, U.S. importers, and U.S. purchasers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably. As shown from table II-4, at least 70 percent of responding U.S. producers, between 39 and 41 percent of responding importers, and slightly more than half of purchasers indicated that SRC pipe and tube produced in the United States and imported from China and Mexico are “always” used interchangeably. All or all but one responding producer, 77 percent of responding importers, and 75 to 80 percent of responding purchasers reported that they are at least “frequently” used interchangeably.

Table II-4

SRC pipe and tube: Perceived interchangeability between SRC pipe and tube produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. subject countries:												
U.S. vs. China	7	2	1	0	12	12	5	2	16	8	5	1
U.S. vs. Mexico	6	2	0	0	9	8	4	1	18	6	6	2
U.S. vs. nonsubject countries:												
U.S. vs. Canada	5	1	2	0	9	3	4	1	15	5	1	1
U.S. vs. Malaysia	4	0	0	0	7	5	1	1	7	3	3	0
U.S. vs. other nonsubject	1	0	0	0	8	4	1	1	7	2	1	0
Subject countries comparisons:												
China vs. Mexico	5	1	0	0	8	4	2	1	13	3	4	1
Nonsubject countries comparisons:												
China vs. Canada	4	1	0	0	8	2	3	1	10	1	1	1
China vs. Malaysia	4	0	0	0	7	4	1	0	7	2	3	0
China vs. other nonsubject	1	0	0	0	7	3	0	0	7	1	1	0
Mexico vs. Canada	4	1	0	0	8	2	3	1	11	0	1	1
Mexico vs. Malaysia	4	0	0	0	6	2	2	0	7	1	3	0
Mexico vs. other nonsubject	1	0	0	0	7	1	0	0	7	0	1	0
Canada vs. Malaysia	4	0	0	0	6	1	2	1	7	0	1	2
Canada vs. other nonsubject	0	0	0	0	7	1	0	1	7	0	1	1
Malaysia vs. other nonsubject	1	0	0	0	7	2	0	1	7	0	1	1
Note.--A = Always, F = Frequently, S = Sometimes, N = Never. Source: Compiled from data submitted in response to Commission questionnaires.												

Importer *** indicated that plumbing tube produced in Mexico is interchangeable with U.S.-produced plumbing tube, but that Mexico does not currently export a significant amount of “interchangeable” industrial tube products to the United States. Importer *** indicates that, generally, imported copper tube product is better quality (higher copper content) and has more consistent wall thicknesses. Importer Copper and Brass indicated that the products that it imports from Mexico and not produced in the United States include military specification tube for ship building, heat exchanges for petrochemical applications, sugar tubes for producing sugar, wave guide tubes for cellular communications, and heavy wall copper tubes often used in heat exchange applications and electronic applications.³⁴ It indicates that these products are probably a fraction of all the SRC pipe and tube products Copper and Brass imports into the U.S. market (Copper and Brass indicates that its imports make up about 1 to 2 percent of the U.S. market).³⁵ Importer *** indicated (***) that its SRC pipe and tube is generally perceived as being of higher quality than that of U.S. producers.

³⁴ Conference transcript, pp. 114-115 (Kelly).

³⁵ Conference transcript, p. 161 (Kelly).

Importer *** indicates that commercial and industrial buyers prefer cast and roll-produced product because of higher copper content (cathode only) and tighter specifications. Purchaser *** indicated that inner groove tube produced from a continuous horizontal cast and roll process has historically only been available from Chinese sources and more recently Mexican sources.³⁶

In comparing imported SRC pipe and tube from China to that from Mexico, 83 percent of responding U.S. producers, 50 percent of responding importers, and 62 percent of responding purchasers reported that they are “always” used interchangeably. All responding U.S. producers, 81 percent of responding importers, and 76 percent of responding purchasers reported that SRC pipe and tube from China and from Mexico are at least “frequently” used interchangeably.

At least 62 percent of responding U.S. producers, and at least half of responding importers and purchasers reported that SRC pipe and tube produced in the United States and imported from nonsubject countries are “always” used interchangeably. At least 80 percent of U.S. producers, at least 57 percent of importers, and at least 58 percent of purchasers reported that SRC pipe and tube imports from China and Mexico, and imports from nonsubject countries are “always” used interchangeably.

As indicated in table II-5, all responding U.S. producers and 60 to 67 percent of responding importers indicated that differences other than price between SRC pipe and tube produced in the United States and imported from China and Mexico were at most “sometimes” a significant factor in their sales. All responding U.S. producers and at least 55 percent of responding importers indicated that differences other than price between SRC pipe and tube produced in the United States and imported from nonsubject countries were at most “sometimes” a significant factor in their sales.

Purchasers were also asked to compare SRC pipe and tube produced in the United States and subject and nonsubject countries on the basis of different purchasing factors (table II-6). The U.S. product was ranked comparable with imports from China by at least half of responding purchasers for all characteristics except for delivery time, price, and reliability of supply. The U.S. product was ranked comparable with imports from Mexico by at least half of responding purchasers for all characteristics.

³⁶ ***.

Table II-5

SRC pipe and tube: Perceived differences other than price between SRC pipe and tube produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. subject countries:								
U.S. vs. China	0	0	5	4	3	5	8	8
U.S. vs. Mexico	0	0	3	4	2	4	6	3
U.S. vs. nonsubject countries:								
U.S. vs. Canada	0	0	5	2	0	1	3	7
U.S. vs. Malaysia	0	0	3	0	1	3	3	2
U.S. vs. other nonsubject	0	0	1	0	1	2	4	4
Subject countries comparisons:								
China vs. Mexico	0	0	0	4	0	1	3	3
Nonsubject countries comparisons:								
China vs. Canada	0	0	2	1	0	2	2	4
China vs. Malaysia	0	0	2	0	0	3	2	1
China vs. other nonsubject	0	0	0	0	0	2	2	3
Mexico vs. Canada	0	0	3	1	0	1	2	4
Mexico vs. Malaysia	0	0	2	0	0	2	2	1
Mexico vs. other nonsubject	0	0	0	0	0	1	2	4
Canada vs. Malaysia	0	0	2	0	0	1	2	1
Canada vs. other nonsubject	0	0	0	0	0	0	2	3
Malaysia vs. other nonsubject	0	0	0	0	0	0	3	3
Note.--A = Always, F = Frequently, S = Sometimes, N = Never. Source: Compiled from data submitted in response to Commission questionnaires.								

Table II-6

SRC pipe and tube: Purchasers' comparisons of domestic and subject and nonsubject products

Factor	U.S. vs. China			U.S. vs. Mexico			China vs. Mexico		
	S	C	I	S	C	I	S	C	I
Availability	9	13	3	8	12	1	5	7	3
Delivery terms	6	16	3	8	12	2	6	7	2
Delivery time	14	7	4	10	12	1	5	4	6
Discounts offered	0	19	3	1	18	2	2	11	1
Extension of credit	5	15	5	6	14	2	2	12	1
Lower price	0	9	16	0	11	11	3	10	2
Lower US. transportation costs	6	15	2	7	13	2	1	13	1
Minimum quantity requirements	7	14	4	7	13	2	2	10	3
Packaging	2	19	4	3	18	1	1	14	0
Product consistency	1	17	7	4	13	5	4	11	0
Product range	4	17	4	3	15	4	3	11	1
Quality exceeds industry standards	1	19	5	5	13	4	6	9	0
Quality meets industry standards	0	21	3	4	15	1	4	11	0
Rebate program	3	14	0	3	14	0	1	11	1
Reliability of supply	7	12	6	10	11	1	6	8	1
Technical support/service	10	14	1	7	14	1	2	11	2

Note.—S = domestic product superior, C = domestic product comparable, I = domestic product inferior.

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

ELASTICITY ESTIMATES

This section discusses the elasticity estimates.

U.S. Supply Elasticity

The domestic supply elasticity for SRC pipe and tube measures the sensitivity of the quantity supplied by U.S. producers to a change in the U.S. market price of SRC pipe and tube. 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 the production of other products, the existence of inventories, and the availability of alternative markets for U.S.-produced SRC pipe and tube.³⁷ Earlier analysis of these factors indicates that the U.S. industry has the ability to respond to changes in demand with large changes in shipments of SRC pipe and tube to the U.S. market. Staff estimated that the supply elasticity for SRC pipe and tube was between 5 and 10 in the prehearing staff report. Petitioners described this range as a "reasonable" estimate and Golden Dragon respondents indicated that while the estimate is reasonable, it should be lowered to a range of 4 to 6 because domestic producers' unused capacity is overestimated because theoretical capacity may bear little resemblance to actual capacity.³⁸ However, Golden Dragon respondents do not propose an alternative estimate of domestic capacity utilization and staff has estimated the responsiveness of both U.S. supply and subject imports based on the capacity and production reported in U.S. producer and foreign producer questionnaires.³⁹

U.S. Demand Elasticity

The U.S. demand elasticity for SRC pipe and tube measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of SRC pipe and tube. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of SRC pipe and tube in the production of downstream products. Based on available information, the demand elasticity for SRC pipe and tube is likely to be in the range of -0.75 to -1.25. Petitioners described this range as an "appropriate" estimate and Golden Dragon respondents indicated that they do not "quibble" with the U.S. demand elasticity estimate.⁴⁰

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.⁴¹ Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, surfaces, coil sizes) and conditions of sale (e.g., service, availability, delivery). Petitioners feel that an estimate of 6 to 10 is more in alignment with the characterization of

³⁷ Domestic supply response is assumed to be symmetrical for both an increase and a decrease in demand for the domestic product. Therefore, factors affecting increased quantity supplied to the U.S. market also affect decreased quantity supplied to the same extent.

³⁸ Hearing transcript, pp. 140-41 (Boyce), p. 154 (Weil), and p. 233 (Rogers) and Golden Dragon respondent's posthearing brief at R-12.

³⁹ For example, see "Subject Imports from China" and "Subject Imports from Mexico" earlier in this section.

⁴⁰ Hearing transcript, p. 141 (Boyce) and p. 233 (Rogers).

⁴¹ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and U.S. domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject product (or vice versa) when prices change.

substitutability being moderate to high than the range of 3 to 5 suggested in the prehearing staff report.⁴² Golden Dragon respondents indicate that the substitution elasticities should be lowered to a range of 2 to 4 because industrial SRC pipe and tube imported from China is not necessarily the same as U.S.-produced industrial SRC pipe and tube.⁴³ In most recent investigations, staff has suggested an elasticity range of 2 to 4 for “moderate” substitutability and an average range of 3 to 5 for “high” substitutability.⁴⁴ Also, the “moderate to high” characterization of substitutability reflects that 39 to 41 percent of responding importers and slightly more than one-half of responding purchasers feel that U.S. produced SRC pipe and tube and SRC pipe and tube imported from China and Mexico is always interchangeable. Therefore a range of 3 to 5 is appropriate to characterize the moderate to high level of substitutability between U.S.-produced SRC pipe and tube and subject imported SRC pipe and tube.⁴⁵

Petitioners estimate that dumped subject imports accounted for a *** percent reduction in the price of U.S. produced SRC pipe and tube and a *** percent reduction in the volume of U.S. shipments using the “full pass through case in the CADIC model.”⁴⁶ They also estimated a price decline of *** percent and a decrease in the volume of U.S. shipments of *** percent using the partial pass through case. Petitioners assumed the midpoint of the elasticity estimates in the prehearing staff report and a margin of 33.3 percent.⁴⁷

⁴² Hearing transcript, p. 141 (Boyce, Levy) and petitioners’ prehearing brief, exhibit 14.

⁴³ Hearing transcript, p. 233 (Rodgers) and Golden Dragon respondent’s posthearing brief at R-12.

⁴⁴ For example, *Certain Potassium Phosphate Salts from China Investigation Nos. 701-TA-473 and 731-TA-1173 (Final)*, Publication No. 4171, July 2010 at II-17 and II-29; *Wire Decking from China Investigation Nos. 701-TA-466 and 731-TA-1162 (Final)*, Publication No. 4172, July 2010 at II-8 and II-14; and *Certain Oil Country Tubular Goods from China Investigation No. 701-TA-463 (Final)*, Publication No. 4124, January 2010 at II-14 and II-22 all suggest a range of 3 to 5 for a “high” level of substitutability and *Prestressed Concrete Steel Wire Strand from China Investigation Nos. 701-TA-464 and 731-TA-1160 (Final)*, Publication No. 4162, June 2010 at II-16 suggests a range of 2 to 4 for a “moderate” level of substitutability. Also, *Certain Steel Grating from China Investigation Nos. 701-TA-465 and 731-TA-1161 (Final)*, Publication No. 4168, July 2010 at II-5, II-11-12 suggests a range of 2 to 4 for “high” substitutability and *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam, Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (Final)*, Publication No. 4144, April 2010 at II-15 and II-26 suggests a range of 4 to 6 for high substitutability.

⁴⁵ Additionally, the elasticities of substitution between U.S.-produced SRC pipe and tube and nonsubject imports and between subject imports and nonsubject imports are likely to be in the same range.

⁴⁶ CADIC is a precursor to the COMPAS model. Using the same assumptions, the COMPAS model provides similar estimates as the full pass through case in the CADIC model.

⁴⁷ Petitioners’ posthearing brief, Response to Commissioners’ questions p. 38 and Exhibit 10.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

Information presented in this section of the report is based on the questionnaire responses of 14 firms which are believed to account for 95 percent of U.S. production of SRC pipe and tube in 2009.

U.S. PRODUCERS

The Commission sent producer questionnaires to 23 firms identified in the petition as domestic producers of SRC pipe and tube. The Commission received usable producer questionnaire responses from 14 producers.¹ Presented in table III-1 is a list of current domestic producers of SRC pipe and tube, each company's position on the petition, production location(s), related and/or affiliated firms, and share of reported production of SRC pipe and tube in 2009. Two firms, ***, accounted for *** percent of reported 2009 domestic production of SRC pipe and tube.

Seven U.S. producers² are related to foreign producers of the subject merchandise and two are related to U.S. importers³ of the subject merchandise. In addition, as discussed later in this section, four U.S. producers⁴ directly import ***.

Table III-1

SRC pipe and tube: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2009 reported U.S. production

Firm	Position on petition	U.S. production location(s)	Related and/or affiliated firms	Share of production (percent)
Cambridge-Lee	***	Reading, PA	United Copper Industries (U.S.) Cambridge-Lee Holdings (U.S.) Tanjore Corp. (U.S.) Tubo dl Pastege (U.S.) IUSA (Mexico)	***
Cerro	Petitioner	Sauget, IL Shelbina, MO Vinita Park, MO Mexico, MO Cedar City, UT	Marmon Holdings	***

Table continued on following page:

¹ ***. A number of U.S. firms consume in-scope copper tube as a raw material and further process those tubes into finished products, which may be either within or outside the scope of these investigations. Some of these finishing processes include: drawing, beading, bending, annealing, cutting to length, flaring, machining, stamping, and brazing. ***. The Commission received useable questionnaire data from the following converters: ***. These firms accounted for approximately *** percent of U.S. production of SRC pipe and tube in 2009.

² ***.

³ ***.

⁴ ***. ***. ***. Respondents' posthearing brief (Golden Dragon), responses to Commission's questions, p. R-19.

Table III-1--Continued

SRC pipe and tube: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2009 reported U.S. production

Elkhart Products	***	Elkhart, IN	Aalberts Industries (Netherlands)	***
Freeport-McMoRan	***	Elizabeth, NJ	Freeport-McMoRan Copper & Gold Inc. (U.S.)	***
H & H	***	Vanderbilt, MI	Sunspring Metal Corp. (Taiwan)	***
Howell Metal	***	New Market, VA	Commercial Metals (CMC)(U.S.)	***
Kobe Wieland	Petitioner	Pine Hall, NC Wheeling, IL	Wieland Holdings (U.S.) Kobe Copper (U.S.) Wieland Metals (U.S.) Wieland-Werke (Germany) Wolverine Tube Shanghai (China) Kobelco & Materials Copper (Japan) Kobelco & Materials Copper (Malaysia) Kobelco & Materials Copper (Thailand)	***
Mueller	Petitioner	Fulton, MS Wynne, AR	Mueller Industries Jiangsu Mueller-Xingrong Copper (China) Mueller Europe Precision Tube (U.S.)	***
National Copper Products	***	Birmingham, AL	National Tube Holding Co. National Copper & Smelting Co.	***
Packless	***	Waco, TX	None	***
Precision Tube	***	North Wales, PA	Mueller Streamline Co. Jiangsu Mueller-Xingrong Copper (China) Mueller Europe Mueller	***
S.T. Products	***	Duncansville, PA	S.T. Products Holdings (U.S.)	***
Trojan Tube	***	Howell, NJ	None	***
Wolverine	***	Ardmore, TN Huntsville, AL Shawnee, OK Decatur, AL Carrolton, TX Booneville, MS	Wolverine Tube Shanghai (China) Wolverine Tubagem (Portugal) WLVN de LatinoAmerica (Mexico)	***
Total				100.0
Note.--Because of rounding, shares may not total to 100.0 percent.				
Source: Compiled from data submitted in response to Commission questionnaires.				

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. producers' capacity, production, and capacity utilization data for SRC pipe and tube are presented in table III-2. These data show capacity to produce SRC pipe and tube decreased by 8.3 percent from 2007 to 2009. Production of SRC pipe and tube decreased by 31.9 percent from 2007 to 2009 and increased by 4.0 percent between the interim periods. Capacity utilization decreased by 16.5 percentage points from 2007 to 2009, and increased by 3.7 percentage points between the interim periods.

Table III-2
SRC pipe and tube: U.S. capacity, production, and capacity utilization, 2007-09, January-June 2009, and January-June 2010

Item	Calendar year			January-June	
	2007	2008	2009	2009	2010
Capacity ¹ (1,000 pounds)	1,223,928	1,120,991	1,122,794	563,535	545,709
Production (1,000 pounds)	781,123	640,036	531,562	284,755	296,071
Capacity utilization (percent)	63.8	57.1	47.3	50.5	54.3
¹ U.S. producers reported capacity (production capacity) based on operating *** hours per week and *** weeks per year. Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. producers were asked if they had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of their operations or organization relating to the production of SRC pipe and tube since January 1, 2007. Eight U.S. producers provided responses which are presented in table III-3.

The domestic industry closed a number of SRC pipe and tube plants during the period examined: Luvata Grenada shut down production in 2006. Luvata Grenada estimated it produced *** pounds of SRC pipe and tube in 2006.⁵ Wolverine closed its Decatur, AL, plant in December 2007 (capacity approximately *** pounds). According to testimony presented at the hearing, the majority of the products produced at the Decatur, AL, plant consisted of plumbing tube and smooth industrial tube. With the closing of the Decatur plant, Wolverine exited the plumbing tube business and moved some of its smooth industrial tube production to its plant in Shawnee, OK.⁶ Wolverine closed its Booneville, MS, plant in November 2007.⁷ Wolverine also closed its Jackson, TN, plant (capacity approximately *** pounds); however, production at this plant consisted solely of welded inner-groove copper tube, which

⁵ ***.

⁶ Hearing transcript, pp. 227-228 (Weil). Wolverine's decision to exit the plumbing tube business was based on the decline in demand for plumbing tube due to the advent of plastic tubing and the sharp rise in commodity copper prices. In addition, Wolverine's maintains that the competitiveness of the Decatur and Booneville products was ***. Respondents' posthearing brief (Wolverine), p. 7.

⁷ Wolverine's Booneville, MS, plant produced inner-groove copper tube and was temporarily closed in October 2003. It was later reopened to produce redraw material that was then shipped to other Wolverine facilities before ultimately closing in November 2007. Hearing transcript, p. 150 (Weil).

can be substituted for SRC pipe and tube, but is not subject to these investigations.⁸ Linderme Tube Co. closed in September 2008 (capacity approximately *** pounds);⁹ and National Copper closed its Dowagiac, MI, plant in November 2008 (capacity *** pounds).¹⁰

**Table III-3
SRC pipe and tube: Changes in U.S. producers' production operations**

* * * * *

Five U.S. producers reported the production of other products on the same equipment and machinery and using the same production and related workers employed in the production of SRC pipe and tube, as presented in table III-4.

**Table III-4
SRC pipe and tube: Production of other products on the same equipment and machinery**

* * * * *

U.S. PRODUCERS' SHIPMENTS

Data on domestic producers' shipments of SRC pipe and tube are presented in table III-5. U.S. shipments decreased by 31.9 percent from 2007 to 2009. The unit value of U.S. shipments decreased by 22.5 percent from 2007 to 2009, and increased by 46.0 percent in the interim periods. Exports of SRC pipe and tube were reported by 9 firms.¹¹ Exports accounted for 5.7 percent of U.S. producers' total shipments during 2009. The export markets listed included ***. U.S. commercial shipments accounted for *** percent of U.S. producers' total shipments of SRC pipe and tube in 2009. Transfers to related firms accounted for *** percent of U.S. producers' total shipments of SRC pipe and tube in 2009.¹² Internal consumption accounted for *** percent of U.S. producers' total shipments of SRC pipe and tube in 2009.¹³

⁸ Hearing transcript, p. 148 (Weil). Wolverine's Jackson, TN, plant manufactured and sold non-subject welded inner groove tube from approximately 2003 to 2006. During a portion of that period, Golden Dragon exported and sold in North America subject seamless IGT products ***. Wolverine closed the Jackson plant and subsequently ***. Respondents' posthearing brief (Wolverine), p. 2.

⁹ Linderme employed approximately 85 workers in Euclid, OH. Its assets and customer base were purchased by S.T. Products. <http://www.tubelinks.com/tubenews.php?cat=Closures>, retrieved July 8, 2010. In the twelve calendar months prior to S.T. Products' acquisition of Linderme in October 2008, Linderme Tube shipped *** pounds of SRC pipe and tube and in the previous 12 calendar months, Linderme shipped *** pounds of SRC pipe and tube. ***.

¹⁰ ***. ***.

¹¹ ***.

¹² ***.

¹³ ***.

Table III-5
SRC pipe and tube: U.S. producers' shipments, by types, 2007-09, January-June 2009, and January-June 2010

Item	Calendar year			January-June	
	2007	2008	2009	2009	2010
Quantity (1,000 pounds)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	752,491	612,032	512,809	277,289	264,741
Export shipments	33,253	33,243	30,971	14,578	21,541
Total shipments	785,744	645,275	543,780	291,867	286,282
Value (1,000 dollars)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	3,033,910	2,578,115	1,602,849	768,352	1,070,821
Export shipments	136,379	142,244	100,139	40,457	90,235
Total shipments	3,170,289	2,720,359	1,702,988	808,809	1,161,056
Unit value (per pound)					
Commercial shipments	\$***	\$***	\$***	\$***	\$***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	4.03	4.21	3.13	2.77	4.04
Export shipments	4.10	4.28	3.23	2.78	4.19
Average	4.03	4.22	3.13	2.77	4.06
Share of quantity (percent)					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	95.8	94.8	94.3	95.0	92.5
Export shipments	4.2	5.2	5.7	5.0	7.5
Total shipments	100.0	100.0	100.0	100.0	100.0
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' INVENTORIES

Data on domestic producers' end-of-period inventories of SRC pipe and tube are presented in table III-6. Domestic producers' inventories decreased by 28.1 percent from 2007 to 2009, and decreased by 15.0 percent in interim 2010 compared with interim 2009. U.S. producers' inventories were equivalent to between 6.2 and 7.6 percent of U.S. producers' total shipments during 2007 to June 2010. Producers generally do not maintain significant inventories of SRC pipe and tube because of the volatility of copper prices.¹⁴

Table III-6
SRC pipe and tube: U.S. producers' end-of-period inventories, 2007-09, January-June 2009, and January-June 2010

Item	Calendar year			January-June	
	2007	2008	2009	2009	2010
Inventories (<i>1,000 pounds</i>)	52,936	48,747	38,053	41,930	35,642
Ratio to production (<i>percent</i>)	6.8	7.6	7.2	7.4	6.0
Ratio to U.S. shipments (<i>percent</i>)	7.0	8.0	7.4	7.6	6.7
Ratio to total shipments (<i>percent</i>)	6.7	7.6	7.0	7.2	6.2

Note.—Partial-year ratios are based on annualized production and shipments.

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

U.S. PRODUCERS' IMPORTS AND PURCHASES

Two U.S. producers reported that they directly imported SRC pipe and tube from ***,¹⁵ three imported from ***,¹⁶ and two imported from ***¹⁷ during the period examined. Nine U.S. producers reported that they purchased SRC pipe and tube from other U.S. producers,¹⁸ three purchased imports from ***,¹⁹ three purchased imports from ***,²⁰ and four purchased imports from nonsubject sources.²¹ U.S. producers' imports and purchases of SRC pipe and tube from China and Mexico are presented in table III-7.

¹⁴ Petitioners' postconference brief, p. 32.

¹⁵ ***, ***. Respondents' posthearing brief (Golden Dragon), responses to Commission's questions, p. R-19.

¹⁶ ***.

¹⁷ ***.

¹⁸ ***.

¹⁹ ***.

²⁰ ***.

²¹ ***.

Table III-7**SRC pipe and tube: U.S. producers' imports and purchases, 2007-09, January-June 2009, and January-June 2010**

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

U.S. producers' aggregate employment data for SRC pipe and tube are presented in table III-8.²² In the aggregate, U.S. SRC pipe and tube producers reported a 20.4 percent decrease in the number of production and related workers employed in the manufacture of SRC pipe and tube from 2007 to 2009, and a 9.9 percent decrease in interim 2010 compared with interim 2009. *** accounted for the major share of the decrease in number of employees from 2007 to 2009. Productivity decreased 9.7 percent from 2007 to 2009, and increased by 13.1 percent in interim 2010 compared with interim 2009.

Table III-8**SRC pipe and tube: U.S. producers' employment-related data, 2007-09, January-June 2009, and January-June 2010**

Item	Calendar year			January-June	
	2007	2008	2009	2009	2010
Production and related workers (PRWs)	3,644	3,303	2,902	2,962	2,668
Hours worked by PRWs (<i>1,000 hours</i>)	7,791	6,980	5,873	3,056	2,809
Wages paid to PRWs (<i>1,000 dollars</i>)	136,285	124,976	104,257	54,720	50,468
Hourly wages	\$17.49	\$17.90	\$17.75	\$17.91	\$17.97
Productivity (<i>pounds produced per hour</i>)	100.1	91.6	90.5	93.1	105.3
Unit labor costs (<i>per pound</i>)	\$0.17	\$0.20	\$0.20	\$0.19	\$0.17

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

²² ***.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Importer questionnaires were sent to 72 firms believed to be importers of subject SRC pipe and tube, as well as to all U.S. producers of SRC pipe and tube.¹ U.S. import data are based on official import statistics of Commerce.² Table IV-1 lists all responding U.S. importers of SRC pipe and tube from China, Mexico, and other sources, their locations, and their shares of U.S. imports in 2009. In 2009, the largest importer of SRC pipe and tube from China was ***, the largest importer of SRC pipe and tube from Mexico was ***, and the largest importer of SRC pipe and tube from other sources was ***.

Table IV-1
SRC pipe and tube: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2009

Firm	Headquarters	Share of 2009 imports (percent)				
		China	Mexico	Subject sources	Other	Total
Abco	Chatham, MA Memphis, TN	***	***	***	***	***
Ask Products	Aurora, IL	***	***	***	***	***
Automotive Technical	Dacula, GA	***	***	***	***	***
Browning Metal	Purchase, NY	***	***	***	***	***
Burndy	Shelton, CT	***	***	***	***	***
Cambridge-Lee	Reading, PA	***	***	***	***	***
Carrier	Syracuse, NY	***	***	***	***	***
CMC	Fort Lee, NJ	***	***	***	***	***
Copper & Brass	Houston, TX	***	***	***	***	***
CPW America	Houston, TX	***	***	***	***	***
David Bleich	Calabasas, CA	***	***	***	***	***

Table continued on next page.

¹ The Commission sent 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 imported greater than one percent of total imports under HTS subheadings 7411.10.1030 or 7411.10.1090 in any one year since 2007. The Commission received responses from nine firms that reported they did not import SRC pipe and tube during the period examined. Those firms are: ***.

² When compared to official import statistics of Commerce, questionnaire responses from U.S. importers represented 83.7 percent of total imports from China, 106.5 percent of total imports from Mexico, and 56.2 percent of total imports from all other sources in 2009. Table C-2 presents U.S. import data for China and Mexico based on questionnaire responses of 42 firms and U.S. import data for nonsubject sources based on official import statistics of Commerce.

Table IV-1--Continued

SRC pipe and tube: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2009

Firm	Headquarters	Share of 2009 imports (percent)				
		China	Mexico	Subject sources	Other	Total
Dayco	Mira Loma, CA	***	***	***	***	***
Dial	Phoenix, AZ	***	***	***	***	***
Energy Solar Products	Toa Baja, PR	***	***	***	***	***
Engineered Controls	Elon, NC	***	***	***	***	***
GD Copper (U.S.)	Ponte Vedra Beach, FL	***	***	***	***	***
Gemaire	Deerfield Beach, FL	***	***	***	***	***
Global Brass	Redlands, CA	***	***	***	***	***
Hitachi	San Jose, CA	***	***	***	***	***
Homewerks	Wheeling, IL	***	***	***	***	***
JMF	Bettendorf, IA	***	***	***	***	***
Jones Stephens	Moody, AL	***	***	***	***	***
KME	Oak Brook, IL	***	***	***	***	***
Kobe Wieland	Pine Hall, NC	***	***	***	***	***
Lloyds Pacific	Hacienda Heights, CA	***	***	***	***	***
Luvata Franklin	Franklin, KY	***	***	***	***	***
Luvata Grenada	Grenada, MS	***	***	***	***	***
Marubeni	New York, NY	***	***	***	***	***
MGM	Las Vegas, NV	***	***	***	***	***
Modine	Racine, WI	***	***	***	***	***
MWI	Oceanside, CA	***	***	***	***	***
National Bronze	Houston, TX	***	***	***	***	***
Nordyne	O'Fallon, MO	***	***	***	***	***
Packless	Waco, TX	***	***	***	***	***

Table continued on next page.

Table IV-1--Continued

SRC pipe and tube: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2009

Panduit	Tinley Park, IL	***	***	***	***	***
Pepco Sales	Irving, TX	***	***	***	***	***
Refricenter	Miami, FL	***	***	***	***	***
Refricentro	San Juan, PR	***	***	***	***	***
S.T. Products	Duncansville, PA	***	***	***	***	***
Wells Plumbing	Chicago, IL	***	***	***	***	***
Wieland Metals	Wheeling, IL	***	***	***	***	***
Wolverine	Huntsville, AL Ardmore, TN Shawnee, OK Carrollton, TX	***	***	***	***	***
Total		100.0	100.0	100.0	100.0	100.0
Note.—Because of rounding, figures may not add to the totals shown.						
Source: Compiled from data submitted in response to Commission questionnaires.						

U.S. IMPORTS

U.S. import data for China and Mexico are based on official import statistics of Commerce.³ Table IV-2 presents data for U.S. imports of SRC pipe and tube from China, Mexico, and all other sources. From 2007 to 2009, the quantity of imports of SRC pipe and tube from China increased by 1.3 percent and the value decreased by 30.0 percent. The unit value of imports of SRC pipe and tube from China decreased by 30.9 percent from 2007 to 2009, and increased by 70.2 percent in interim 2010 compared with interim 2009. From 2007 to 2009, the quantity of imports of SRC pipe and tube from Mexico decreased by 36.2 percent and the value decreased by 53.8 percent. The unit value of imports of SRC pipe and tube from Mexico decreased by 27.7 percent from 2007 to 2009, and increased by 46.4 percent in interim 2010 compared with interim 2009. The quantity and value of imports from nonsubject countries decreased by 38.8 percent and by 54.9 percent, respectively, from 2007 to 2009, and increased by 34.3 percent and 113.1 percent, respectively, in interim 2010 compared with interim 2009. The unit value of imports of SRC pipe and tube from nonsubject sources decreased by 26.2 percent from 2007 to 2009, and increased by 58.6 percent in interim 2010 compared with interim 2009.

Nonsubject imports of SRC pipe and tube are presented in table IV-3. Canada and Malaysia are the largest nonsubject foreign suppliers of SRC pipe and tube to the United States.⁴

³ SRC pipe and tube is classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under statistical reporting numbers 7411.10.1030 or 7411.10.1090.

⁴ Other major nonsubject suppliers include Korea, Japan, Germany, and Chile.

Table IV-2
SRC pipe and tube: U.S. imports, by sources, 2007-09, January-June 2009, and January-June 2010

Source	Calendar year			January-June	
	2007	2008	2009	2009	2010
Quantity (1,000 pounds)					
China	90,624	111,126	91,768	49,388	28,719
Mexico	75,199	71,327	48,014	31,340	17,183
Subtotal	165,823	182,453	139,782	80,728	45,902
Nonsubject	74,226	64,441	45,426	22,961	30,847
Total	240,049	246,894	185,209	103,689	76,750
Value (1,000 dollars)¹					
China	348,772	446,282	244,101	110,981	109,860
Mexico	284,287	281,957	131,261	79,376	63,732
Subtotal	633,059	728,238	375,362	190,357	173,592
Nonsubject	292,345	268,218	131,960	57,314	122,111
Total	925,404	996,456	507,321	247,671	295,703
Unit value (per pound)¹					
China	\$3.85	\$4.02	\$2.66	\$2.25	\$3.83
Mexico	3.78	3.95	2.73	2.53	3.71
Subtotal	3.82	3.99	2.69	2.36	3.78
Nonsubject	3.94	4.16	2.90	2.50	3.96
Average	3.86	4.04	2.74	2.39	3.85
Share of quantity (percent)					
China	37.8	45.0	49.5	47.6	37.4
Mexico	31.3	28.9	25.9	30.2	22.4
Subtotal	69.1	73.9	75.5	77.9	59.8
Nonsubject	30.9	26.1	24.5	22.1	40.2
Total	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
China	37.7	44.8	48.1	44.8	37.2
Mexico	30.7	28.3	25.9	32.0	21.6
Subtotal	68.4	73.1	74.0	76.9	58.7
Nonsubject	31.6	26.9	26.0	23.1	41.3
Total	100.0	100.0	100.0	100.0	100.0
¹ Landed, U.S. port of entry, duty-paid. Source: Compiled from data from official Commerce statistics.					

Table IV-3
SRC pipe and tube: U.S. imports from nonsubject countries, by sources, 2007-09, January-June 2009, and January-June 2010

Source	Calendar year			January-June	
	2007	2008	2009	2009	2010
Quantity (1,000 pounds)					
Canada	17,557	20,016	19,217	8,638	12,410
Malaysia	23,039	15,633	11,974	6,565	8,326
Korea	8,550	8,816	5,469	3,119	5,777
Japan	10,864	4,726	312	195	310
Germany	3,936	3,930	3,243	1,810	1,156
Chile	2,458	3,688	1,419	666	809
United Kingdom	3,651	2,805	2,160	981	553
Greece	2,603	2,486	807	543	113
All other	1,569	2,341	828	443	1,394
Total	74,226	64,441	45,426	22,961	30,847
Value (1,000 dollars)¹					
Canada	65,556	80,748	56,150	20,721	49,817
Malaysia	89,966	64,082	32,653	15,386	31,859
Korea	32,981	36,266	14,905	7,416	21,248
Japan	42,197	20,908	1,116	627	1,472
Germany	19,134	20,151	11,361	6,006	5,812
Chile	9,433	14,509	4,081	1,603	3,013
United Kingdom	15,080	11,922	6,448	2,491	2,294
Greece	9,958	10,282	2,510	1,736	461
All other	8,040	9,349	2,735	1,328	6,136
Total	292,345	268,218	131,960	57,314	122,111
Unit value (per pound)¹					
Canada	\$3.73	\$4.03	\$2.92	\$2.40	4.01
Malaysia	3.90	4.10	2.73	2.34	3.83
Korea	3.86	4.11	2.73	2.38	3.68
Japan	3.88	4.42	3.58	3.21	4.75
Germany	4.86	5.13	3.50	3.32	5.03
Chile	3.84	3.93	2.88	2.41	3.72
United Kingdom	4.13	4.25	2.99	2.54	4.15
Greece	3.83	4.14	3.11	3.20	4.08
All other	5.12	3.99	3.30	3.00	4.40
Average	3.94	4.16	2.90	2.50	3.96
¹ Landed, U.S. port of entry, duty-paid. Source: Compiled from official Commerce statistics.					

CUMULATION CONSIDERATIONS

In assessing whether subject imports are likely to compete with each other and with the domestic like product with respect to cumulation, the Commission generally has considered the following four factors: (1) the degree of fungibility, including specific customer requirements and other quality-related questions; (2) presence of sales or offers to sell in the same geographic markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Channels of distribution and fungibility (interchangeability) are discussed in Part II of this report.

Petitioners argue that the Commission should cumulate SRC pipe and tube imports from China and Mexico for its present injury and threat analysis and note that no party has argued the subject imports not be cumulated for the present injury analysis.^{5 6} Respondents IUSA/Nacobre do not oppose cumulation for the purposes of the Commission's present injury analysis, but argue that SRC pipe and tube imports from China and Mexico should not be cumulated for the purposes of the Commission's threat analysis because "most imports from these two countries are very different, i.e., plumbing tube from Mexico versus industrial tube from China, as are other circumstances respecting these imports, such as the disparate volume trends."⁷

Geographic Markets

Table IV-4 presents imports from China by Customs districts from 2007 to 2009, while table IV-5 presents imports from Mexico by Customs districts for the same period. Houston-Galveston, TX, was the largest district of entry for imports from China, accounting for 58.5 percent of total subject imports during 2009. New Orleans, LA, was the second largest port, with 11.1 percent of imports from China. Laredo, TX, was the largest district of entry for imports from Mexico, accounting for 88.3 percent of total subject imports during 2009. El Paso, TX, was the second largest port, with 8.1 percent of subject imports.

⁵ Petitioners' posthearing brief, responses to Commission questions, A-24.

⁶ Petitioners' posthearing brief, responses to Commission questions, A-27. Petitioners also argue that even if the Commission determines not to cumulate on the basis of threat, the Commission should find that the domestic industry is threatened with material injury by reason of subject imports from China and Mexico separately. Ibid, A-28.

⁷ Respondents posthearing brief (IUSA, Nacobre, Cambridge-Lee, and Copper and Brass International), p. 8. IUSA/Nacobre/Cambridge Lee/Copper Brass International do not argue that the Commission should find two separate like products. Rather they argue "the divergent volume and pricing trends for these distinct products, imported primarily from different countries, warrant a Commission determination that it would impractical to cumulate subject imports from Mexico with subject imports from China." Ibid, p. 9.

Table IV-4
SRC pipe and tube: U.S. imports from China, by Customs district, 2007-09

Customs district	Calendar year			Share of 2009 (percent)
	2007	2008	2009	
Quantity (1,000 pounds)				
Baltimore, MD	430	0	0	0.0
Boston, MA	1,062	1,241	667	0.7
Buffalo, NY	603	562	169	0.2
Charleston, SC	0	90	482	0.5
Charlotte, NC	244	237	119	0.1
Chicago, IL	2,025	5,875	5,259	5.7
Cleveland, OH	35	486	25	0.0
Columbia Snake, OR	0	0	9	0.0
Dallas-Fort Worth, TX	7,886	6,871	2,788	3.0
Detroit, MI	753	459	241	0.3
Great Falls, MT	2	139	0	0.0
Honolulu, HI	0	7	0	0.0
Houston-Galveston, TX	47,814	54,124	53,675	58.5
Laredo, TX	43	17	7	0.0
Los Angeles, CA	8,337	5,743	4,767	5.2
Miami, FL	2,724	2,169	530	0.6
Minneapolis, MN	193	1,054	385	0.4
Mobile, AL	623	3,563	2,128	2.3
New Orleans, LA	8,913	12,371	10,186	11.1
New York, NY	1,051	728	1,112	1.2
Nogales, AZ	146	2	4	0.0
Norfolk, VA	434	331	241	0.3
Ogdensburg, NY	30	17	5	0.0
Philadelphia, PA	0	13	0	0.0
San Francisco, CA	95	51	11	0.0
San Juan, PR	139	176	324	0.4
Savannah, GA	5,736	11,845	6,595	7.2
Seattle, WA	127	132	45	0.0
St. Albans, VT	5	0	0	0.0
St. Louis, MO	353	2,509	1,810	2.0
Tampa, FL	819	312	184	0.2
Total	90,624	111,126	91,768	100.0

Source: Compiled from official Commerce statistics.

Table IV-5
SRC pipe and tube: U.S. imports from Mexico, by Customs district, 2007-09

Customs district	Calendar year			Share of 2009 (percent)
	2007	2008	2009	
Quantity (1,000 pounds)				
Chicago, IL	0	1	0	0.0
Cleveland, OH	0	(¹)	0	0.0
El Paso, TX	6,038	6,446	3,908	8.1
Laredo, TX	68,623	63,480	42,411	88.3
Los Angeles, CA	0	0	(¹)	(²)
Miami, FL	184	580	203	0.4
San Diego, CA	1	1	899	1.9
San Juan, PR	353	820	593	1.2
Total	75,199	71,327	48,014	100.0
⁽¹⁾ Less than 500 pounds ⁽²⁾ Less than 0.05 percent				
Source: Compiled from official Commerce statistics.				

Simultaneous Presence in the Market

SRC pipe and tube produced in China and Mexico was present throughout the period for which data were collected. Table IV-6 presents monthly imports into the United States by sources.

Table IV-6

SRC pipe and tube: U.S. imports, monthly entries into the United States, by sources, 2007-09, and January-June 2010

Source	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
2007: Quantity (1,000 pounds)													
China	6,095	5,879	8,884	6,882	8,146	11,180	11,256	8,448	6,275	7,715	5,659	4,205	90,624
Mexico	6,623	5,171	8,243	6,858	9,594	6,082	5,811	7,160	5,722	4,651	4,642	4,642	75,199
Subtotal	12,718	11,049	17,127	13,740	17,741	17,262	17,067	15,608	11,998	12,365	10,301	8,847	165,823
All other	5,964	5,964	6,518	5,966	6,077	6,433	7,521	5,698	5,609	5,960	6,500	6,017	74,226
Total	18,681	17,013	23,645	19,707	23,817	23,695	24,588	21,307	17,606	18,325	16,801	14,863	240,049
2008:													
China	8,957	7,570	11,533	13,683	13,328	9,368	13,332	12,307	6,553	6,473	4,942	3,079	111,126
Mexico	5,942	6,583	8,855	7,484	5,675	5,570	6,761	6,489	6,129	5,306	2,823	3,710	71,327
Subtotal	14,900	14,152	20,389	21,168	19,003	14,938	20,093	18,795	12,682	11,779	7,765	6,789	182,453
All other	5,009	5,557	6,258	5,794	4,728	5,131	7,460	5,193	5,715	4,275	5,258	4,064	64,441
Total	19,908	19,710	26,646	26,962	23,731	20,069	27,553	23,989	18,396	16,054	13,023	10,853	246,894
2009													
China	6,012	6,834	9,989	7,611	8,836	10,107	8,661	8,387	8,172	5,176	5,919	6,065	91,768
Mexico	5,679	4,864	5,575	5,735	5,771	3,717	4,843	3,234	2,933	2,617	1,724	1,323	48,014
Subtotal	11,690	11,698	15,564	13,346	14,607	13,823	13,504	11,622	11,105	7,793	7,642	7,388	139,782
All other	3,981	3,481	3,913	3,179	4,075	4,331	4,015	4,365	3,746	3,656	3,526	3,157	45,426
Total	15,672	15,179	19,477	16,525	18,681	18,155	17,519	15,987	14,851	11,449	11,168	10,545	185,209
2010:													
China	7,980	6,515	4,024	7,100	1,974	1,126	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	28,719
Mexico	1,381	2,265	2,295	5,623	3,340	2,279	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	17,183
Subtotal	9,360	8,780	6,319	12,723	5,314	3,405	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	45,902
All other	4,487	2,703	4,865	5,893	5,229	7,670	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	30,847
Total	13,848	11,484	11,184	18,616	10,543	11,075	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	76,750
¹ Not available.													
Source: Compiled from official statistics of Commerce.													

NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.⁸ Negligible imports are generally defined in the Tariff Act of 1930, 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.⁹ Imports from China accounted for 44.7 percent of total imports of SRC pipe and tube by quantity during September 2008 - August 2009. Imports from Mexico accounted for 29.3 percent of total imports of SRC pipe and tube by quantity during September 2008 - August 2009.

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of SRC pipe and tube during the period shown in table IV-7 are based on questionnaire responses for U.S. shipments and imports are based on official Commerce statistics.¹⁰ The quantity of apparent U.S. consumption decreased by 29.7 percent from 2007 to 2009, and then decreased by 10.4 percent in interim 2010 compared with interim 2009. U.S. demand for SRC pipe and tube is primarily from new residential construction, new commercial construction, and the replacement market for air conditioning and refrigeration units.¹¹

⁸ 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)).

⁹ Section 771(24) of the Act (19 U.S.C. § 1677(24)).

¹⁰ In the Commission's prehearing report, data concerning apparent U.S. consumption data were based on questionnaire responses from U.S. shipments and imports from China and Mexico and official Commerce statistics for imports from all other sources. On September 28, 2010, *** submitted revisions due to the fact that ***. ***. As such, official Commerce statistics were used to calculate apparent U.S. consumption. *See also* Respondents' post-hearing brief (Golden Dragon), responses to Commissioners' questions, R-1.

¹¹ Petitioners' postconference brief, p. 23.

Table IV-7

SRC pipe and tube: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2007-09, January-June 2009, and January-June 2010

Item	Calendar year			January-June	
	2007	2008	2009	2009	2010
Quantity (1,000 pounds)					
U.S. producers' U.S. shipments	752,491	612,032	512,809	277,289	264,741
U.S. imports from--					
China	90,624	111,126	91,768	49,388	28,719
Mexico	75,199	71,327	48,014	31,340	17,183
Subtotal	165,823	182,453	139,782	80,728	45,902
Nonsubject countries	74,226	64,441	45,426	22,961	30,847
Total U.S. imports	240,049	246,894	185,209	103,689	76,750
Apparent U.S. consumption	992,540	858,926	698,018	380,978	341,491
Value (1,000 dollars)					
U.S. producers' U.S. shipments	3,033,910	2,578,115	1,602,849	768,352	1,070,821
U.S. imports from--					
China	348,772	446,282	244,101	110,981	109,860
Mexico	284,287	281,957	131,261	79,376	63,732
Subtotal	633,059	728,238	375,362	190,357	173,592
Nonsubject countries	292,345	268,218	131,960	57,314	122,111
Total U.S. imports	925,404	996,456	507,321	247,671	295,703
Apparent U.S. consumption	3,959,314	3,574,571	2,110,170	1,016,023	1,366,524
Note.--Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.					

U.S. MARKET SHARES

U.S. market share data are presented in table IV-8. U.S. producers' market share decreased by 2.3 percentage points from 2007 to 2009, on the basis of quantity, and was 4.7 percentage points higher in interim 2010 compared with interim 2009.

Table IV-8
SRC pipe and tube: U.S. consumption and market shares, 2007-09, January-June 2009, and
January-June 2010

Item	Calendar year			January-June	
	2007	2008	2009	2009	2010
Quantity (1,000 pounds)					
Apparent U.S. consumption	992,540	858,926	698,018	380,978	341,491
Value (1,000 dollars)					
Apparent U.S. consumption	3,959,314	3,574,571	2,110,170	1,016,023	1,366,524
Share of quantity (percent)					
U.S. producers' U.S. shipments	75.8	71.3	73.5	72.8	77.5
U.S. imports from--					
China	9.1	12.9	13.2	13.0	8.4
Mexico	7.6	8.3	6.9	8.2	5.0
Subtotal	16.7	21.2	20.0	21.2	13.4
Nonsubject countries	7.5	7.5	6.5	6.0	9.0
All countries	24.2	28.7	26.5	27.2	22.5
Share of value (percent)					
U.S. producers' U.S. shipments	76.6	72.1	76.0	75.6	78.4
U.S. imports from--					
China	8.8	12.5	11.6	10.9	8.0
Mexico	7.2	7.9	6.2	7.8	4.7
Subtotal	16.0	20.4	17.8	18.7	12.7
Nonsubject countries	7.4	7.5	6.3	5.6	8.9
All countries	23.4	27.9	24.0	24.4	21.6
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.					

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of SRC pipe and tube is presented in table IV-9. Subject imports were equivalent to 21.2 percent of U.S. production in 2007 and were equivalent to 26.3 percent in 2009 and decreased to 15.5 percent in interim 2010.

Table IV-9
SRC pipe and tube: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2007-09, January-June 2009, and January-June 2010

Item	Calendar year			January-June	
	2007	2008	2009	2009	2010
Quantity (1,000 pounds)					
U.S. production	781,123	640,036	531,562	284,755	296,071
Imports from:					
China	90,624	111,126	91,768	49,388	28,719
Mexico	75,199	71,327	48,014	31,340	17,183
Subtotal	165,823	182,453	139,782	80,728	45,902
Nonsubject countries	74,226	64,441	45,426	22,961	30,847
Total imports	240,049	246,894	185,209	103,689	76,750
Ratio of U.S. imports to production (percent)					
Imports from:					
China	11.6	17.4	17.3	17.3	9.7
Mexico	9.6	11.1	9.0	11.0	5.8
Subtotal	21.2	28.5	26.3	28.4	15.5
Nonsubject countries	9.5	10.1	8.5	8.1	10.4
Total imports	30.7	38.6	34.8	36.4	25.9
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.					

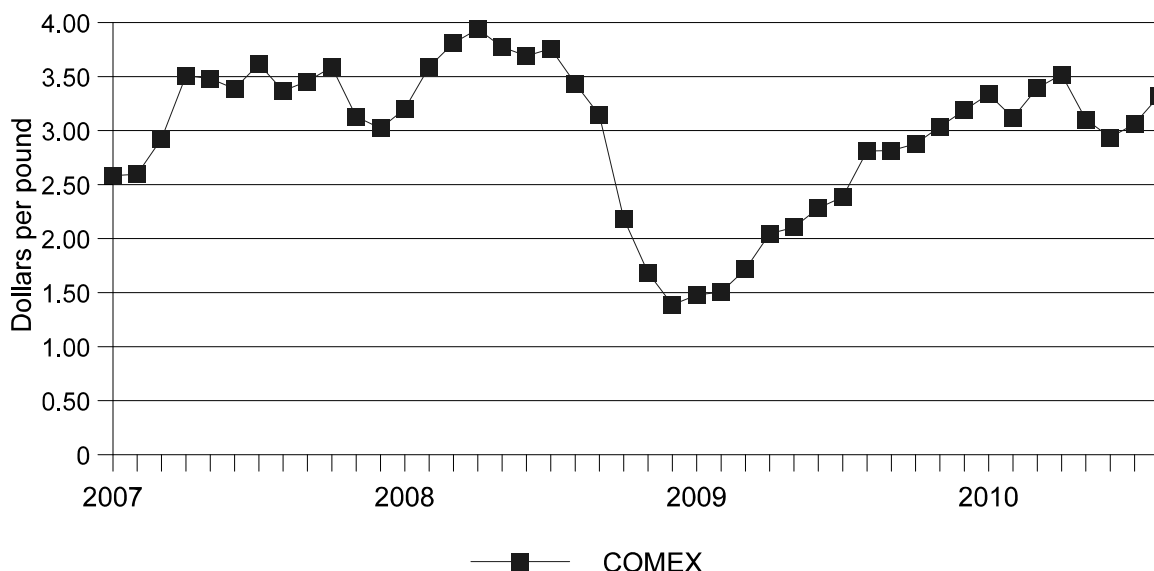
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw material costs accounted for 78 to 86 percent of the total cost of goods sold for U.S. producers during 2007 to 2009. Copper is the main raw material used to produce SRC pipe and tube. One U.S. producer (***) indicated that copper makes up 80 percent of the cost of the SRC pipe and tube. The COMEX price of copper has fluctuated since 2007 ranging from \$1.39 per pound to \$3.94 per pound (see figure V-1).

Figure V-1
SRC pipe and tube: Monthly average COMEX high-grade copper, first position prices, by month, January 2007-August 2010



Source: Platt's Metal Week and USGS.

U.S. Inland Transportation Costs

Transportation costs for U.S. inland shipments of SRC pipe and tube generally account for a small-to-moderate share of the delivered price of these products. U.S. producers reported that the costs ranged from less than 1 percent to 3 percent of the delivered price for SRC pipe and tube. Over two-thirds of responding U.S. importers reported that such costs were less than or equal to 1 percent of the delivered price of SRC pipe and tube; while most of the remaining firms reported costs of less than 10 percent.¹

¹ However, importer *** reported that transportation costs made up 50 percent of the delivered price.

PRICING PRACTICES

Pricing Methods

Most U.S. producers and importers reported making sales of plumbing tube on a spot basis. All six responding U.S. producers and five of eight responding importers reported making all or almost all of their sales of plumbing tube on a spot basis. Petitioners indicate that plumbing tube products are typically sold on a spot basis using a price list and a multiplier that applies equally to all list prices on a given price sheet. They note that a supplier may bid for a total volume without knowing which products from its price list the customer will select.²

The largest U.S. producers and importers of product from China reported making most of their sales of industrial tube using short- or long-term contracts, while the largest importer of product from Mexico reported making all its sales of industrial tube on a spot basis. The three petitioners reported making at least 65 percent of their sales of industrial tube using short- or long-term contracts. The two largest importers of product from China reported making at least 95 percent of their sales of industrial tube using short- or long-term contracts, while the largest importer of product from Mexico reported making all of its sales of industrial tube on a spot basis. Overall, three of 11 responding U.S. producers and seven of 26 responding importers reported making at least 90 percent of their sales of industrial tube using either short- or long-term contracts. Three U.S. producers (***) and 11 importers indicated that they make at least 99 percent of their sales of industrial tube on a spot basis. Petitioners indicated that SRC pipe and tube sold to industrial end users is typically sold using annual contracts with prices quoted on the basis of the COMEX copper price plus a per-pound fabrication charge. They note that under these annual contracts SRC pipe and tube producers generally compete based on the quoted fabrication charge with the understanding that the COMEX price will adjust depending upon the date(s) of shipment.³ One of four U.S. producers and four of seven importers reported that their long-term contracts use metal costs that are based on a benchmark and are sold for plumbing applications. Four of six U.S. producers and five of 12 importers indicated that this was also the case for short-term contracts. In addition, two of 12 responding importers indicated that their short-term contracts use metal costs that are based on a benchmark and are sold for both plumbing and industrial applications. U.S. producers reported using the COMEX price as a benchmark, while importers reported using both the COMEX and LME prices.

Only three of 10 responding U.S. producers and six of 32 responding importers indicated that the quotation period of their copper purchases influence their selling prices of SRC pipe and tube. U.S. producer *** indicated that the longer the quotation period, the lower their selling price. Seven of 10 responding U.S. producers and 10 of 30 responding importers offer hedging transactions that might lock the copper price for long periods of time. Responses suggest that some U.S. producers and importers may offer hedging only to larger customers for limited periods of time such as one month or a year. Eight of 10 responding U.S. producers and 13 of 27 responding importers indicated that variations or changes in the COMEX, LME, or other copper benchmarks affect their overall prices lists.

Most firms reported setting prices on a transaction-by-transaction basis, although some firms also use price lists or contracts for multiple shipments. The seven U.S. producers that reported their method of price setting for sales of SRC pipe and tube for plumbing applications reported using transaction-by-transaction negotiations; three of these U.S. producers also reported using contracts, three also reported using price lists, and one also reported the use of e-auctions. With regard to sales for industrial applications, seven of eight responding U.S. producers reported using transaction-by-transaction negotiations, five reported using contracts, and one reported using price lists. Among importers reporting methods of price setting for plumbing applications, nine reported using transaction-by-transaction

² Petition, p. 38.

³ Petition, p. 39.

negotiations, two reported using contracts, three reported using price lists, and two reported other methods. Among importers reporting methods of price setting for industrial applications, 15 reported using transaction-by-transaction negotiations, six reported using contracts, five reported using price lists, and one reported other methods.

Four of 10 responding U.S. producers and 16 of 29 responding importers reported making their sales on a delivered basis only. Five U.S. producers and six importers reported making their sales on an f.o.b. basis only and the remaining responding U.S. producer and three importers reported making their sales on both f.o.b. and delivered bases. Five of nine responding U.S. producers and 14 of 30 importers reported that at least 90 percent of their sales of SRC pipe and tube are made to order. Three of nine responding U.S. producers and 11 of 30 importers reported that at least 88 percent of their sales are from inventory.

Six of 11 responding U.S. producers and 12 of 26 responding importers reported making at least 90 percent of their sales on a spot basis. Five importers reported making at least 90 percent of their sales on a short-term contract basis, which typically last for 4 months to a year. Three importers (***) reported making at least 60 percent of their sales on a long-term contract basis, although *** defined long-term contracts as “one year and longer” in length and *** defined them as one year in length. One U.S. producer (***) reported making 53 percent of its sales on a short-term contract basis, 35 percent of its sales on a spot basis, and 12 percent of its sales on a long-term (two to three years) contract basis. U.S. producer *** reported making 60 percent of its sales on a short-term contract basis and 35 percent of its sales on a long-term (two years) contract basis.

Sixteen responding purchasers identified price leaders in the market for SRC copper pipe and tube, four responding purchasers indicated there were no price leaders, and three purchasers indicated that they did not know if there were any price leaders. *** was named by 11 purchasers as a price leader, *** was named by eight purchasers, *** was named by three purchasers, *** was named by two purchasers and seven other suppliers were mentioned by one purchaser. Purchaser *** indicated that it does not see any clear suppliers emerging as a “price leader,” but that their competitive bench marking has shown that typically suppliers are clustered around a fairly narrow band of pricing. Purchaser *** indicated that it has no interest in the “price leader mentality/business model” and focuses on quality, delivery, technology, and total cost. Cambridge-Lee and Copper and Brass identify Mueller and Cerro as the price leaders in the U.S. market.⁴ Cambridge-Lee and Marubeni both deny being price leaders for SRC copper pipe and tube.⁵

Lead Times

U.S. producers reported lead times from inventory of up to two weeks and lead times for sales of product-to-order of two to six weeks. Lead times for delivery for all but two responding U.S. importers ranged up to two weeks on sales from inventory and most importers reported lead times on sales of product produced-to-order ranging from 2 to 16 weeks. Six of 10 responding U.S. producers and 24 of 32 responding importers reported that they generally arrange for the transportation to their customers’ locations. All 10 responding U.S. producers and 14 of 30 responding importers reported making at least 47 percent of their sales within 101 to 1,000 miles of their storage or production facilities. No U.S. producers and three responding importers reported making at least 79 percent of their sales over 1,000 miles from their storage or production facilities and all responding U.S. producers and 25 responding importers reported making at least 49 percent of their sales within 1,000 miles of their storage or production facilities.

⁴ Hearing transcript, p. 183 (Kelly), p. 185 (Kerins).

⁵ Hearing transcript, p. 168 (Krahmer), p. 185 (Kelly).

Sales Terms and Discounts

Eight U.S. producers and 12 importers reported the use of quantity discounts, five U.S. producers and three importers reported using annual volume discounts, and two U.S. producers and 15 importers reported having no discount policy. Five of 10 responding U.S. producers and five of 30 responding importers indicated that their company has a rebate program for at least some of their purchasers of SRC pipe and tube. U.S. producers and importers indicated that rebates ranged up to 5 percent.

PRICE DATA

The Commission requested U.S. producers and importers of SRC pipe and tube to provide quarterly data for the total quantity and f.o.b. value of SRC pipe and tube that was shipped to unrelated customers in the U.S. market during January 2007-June 2010. The products for which pricing data were requested are as follows:

Product 1.– Seamless refined copper pipe and tube, ½" Type L, hard temper, 20' lengths

Product 2.– Seamless refined copper pipe and tube, ¾" Type M, hard temper, 20' lengths

Product 3.– Seamless refined copper pipe and tube, ¾" OD, ACR/RST coil, 50'-100' lengths

Product 4.– Seamless refined copper pipe and tube, ¾" OD, ACR/RST coil, 50'-100' lengths

Product 5.– Seamless refined copper pipe and tube, ¾" OD, inner-grooved LWC, 0.0110"-0.0144" bottom wall thickness

Product 6.– Seamless refined copper pipe and tube, 5/16" OD, inner grooved LWC, 0.01170-0.0125" bottom wall thickness

Product 7.– Seamless refined copper pipe and tube, ¾" OD, smooth bore LWC, 0.0249"-0.0327" bottom wall thickness

Product 8.– Seamless refined copper pipe and tube, ¾" OD, smooth bore LWC, 0.0327"-0.0430" bottom wall thickness

Eight U.S. producers, 13 importers of SRC pipe and tube from China, and eight importers of SRC pipe and tube from Mexico provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. Pricing data reported by these firms accounted for approximately 11 percent of U.S. producers' shipments of SRC pipe and tube, 81 percent of U.S. shipments of subject imports from China, and 17 percent of U.S. shipments of subject imports from Mexico in 2009.

Price Trends

Price data are shown in tables V-1 to V-8 and figure V-2. Nonsubject price data are presented in appendix G. Price trend summary data are presented in table V-9. Weighted-average sales prices for

Table V-1

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product 1¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

Period	United States		China			Mexico		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2007:								
Jan.-Mar.	\$3.32	6,373,523	--	0	--	\$***	***	***
Apr.-June	4.27	6,836,605	\$***	***	***	***	***	***
July-Sept.	4.36	3,752,329	***	***	***	***	***	***
Oct.-Dec.	4.04	4,245,997	***	***	***	***	***	***
2008:								
Jan.-Mar.	3.94	5,361,700	***	***	***	***	***	***
Apr.-June	4.41	3,912,587	***	***	***	***	***	***
July-Sept.	4.11	3,965,318	***	***	***	***	***	***
Oct.-Dec.	2.89	3,282,253	--	0	--	***	***	***
2009:								
Jan.-Mar.	2.19	3,661,633	***	***	***	***	***	***
Apr.-June	2.50	3,788,433	***	***	***	***	***	***
July-Sept.	3.02	3,215,782	--	0	--	***	***	***
Oct.-Dec.	3.27	2,798,012	***	***	***	***	***	***
2010:								
Jan.-Mar.	3.51	3,280,150	--	0	--	***	***	***
Apr.-June	3.40	3,297,868	--	0	--	***	***	***

¹ Product 1: Seamless refined copper pipe and tube, ½" Type L, hard temper, 20' lengths.

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

Table V-2

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported products 2¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

Period	United States		China			Mexico		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2007:								
Jan.-Mar.	\$3.26	3,424,664	--	0	--	\$***	***	***
Apr.-June	4.17	4,071,349	--	0	--	***	***	***
July-Sept.	4.28	3,068,029	--	0	--	***	***	***
Oct.-Dec.	3.96	2,254,224	--	0	--	***	***	***
2008:								
Jan.-Mar.	3.93	2,261,843	--	0	--	***	***	***
Apr.-June	4.35	1,791,320	\$***	***	***	***	***	***
July-Sept.	4.02	1,898,740	--	0	--	***	***	***
Oct.-Dec.	2.93	1,334,630	--	0	--	***	***	***
2009:								
Jan.-Mar.	2.16	1,228,243	***	***	***	***	***	***
Apr.-June	2.50	1,087,142	***	***	***	***	***	***
July-Sept.	3.03	1,283,783	--	0	--	***	***	***
Oct.-Dec.	3.25	1,476,378	--	0	--	***	***	***
2010:								
Jan.-Mar.	3.50	1,542,453	--	0	--	***	***	***
Apr.-June	3.42	1,554,454	--	0	--	***	***	***

¹ Product 2: Seamless refined copper pipe and tube, 3/4" Type M, hard temper, 20' lengths.

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

Table V-3

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported products 3¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

Period	United States		China			Mexico		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2007:								
Jan.-Mar.	\$3.61	2,269,309	\$***	***	***	\$***	***	***
Apr.-June	4.69	3,068,659	4.74	179,449	(1.1)	***	***	***
July-Sept.	4.68	2,000,059	4.56	167,342	2.6	***	***	***
Oct.-Dec.	4.42	1,873,448	***	***	***	***	***	***
2008:								
Jan.-Mar.	4.40	1,900,957	4.59	159,967	(4.3)	***	***	***
Apr.-June	4.87	1,940,883	4.60	339,881	5.4	***	***	***
July-Sept.	4.68	1,658,448	4.47	232,848	4.4	***	***	***
Oct.-Dec.	3.50	1,299,268	4.16	270,663	(19.0)	***	***	***
2009:								
Jan.-Mar.	2.47	1,382,492	2.29	273,256	7.2	***	***	***
Apr.-June	2.80	1,213,539	2.60	254,075	7.4	***	***	***
July-Sept.	3.33	1,134,195	3.28	169,335	1.7	***	***	***
Oct.-Dec.	3.66	1,354,540	3.87	92,385	(5.8)	***	***	***
2010:								
Jan.-Mar.	4.06	1,427,314	***	***	***	***	***	***
Apr.-June	3.96	1,782,679	***	***	***	***	***	***
¹ Product 3: Seamless refined copper pipe and tube, 3/8" OD, ACR/RST coil, 50'-100' lengths.								
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-4

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported products 4¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

Period	United States		China			Mexico		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2007:								
Jan.-Mar.	\$3.36	1,739,325	\$4.14	55,434	(23.2)	\$***	***	***
Apr.-June	4.33	2,458,151	4.21	207,501	3.0	***	***	***
July-Sept.	4.33	1,354,142	***	***	***	***	***	***
Oct.-Dec.	4.04	1,217,006	***	***	***	***	***	***
2008:								
Jan.-Mar.	4.15	1,422,224	4.07	231,963	1.8	***	***	***
Apr.-June	4.53	1,670,846	4.81	268,556	(6.1)	***	***	***
July-Sept.	4.34	1,322,794	4.78	216,967	(10.0)	***	***	***
Oct.-Dec.	3.28	888,789	***	***	***	***	***	***
2009:								
Jan.-Mar.	2.30	1,067,639	2.31	273,202	(0.7)	***	***	***
Apr.-June	2.73	942,580	2.80	249,413	(2.5)	***	***	***
July-Sept.	3.26	804,493	3.22	169,222	1.4	***	***	***
Oct.-Dec.	3.71	524,354	***	***	***	***	***	***
2010:								
Jan.-Mar.	3.67	954,025	***	***	***	***	***	***
Apr.-June	4.00	1,388,405	***	***	***	--	0	--

¹ Product 4: Seamless refined copper pipe and tube, 3/4" OD, ACR/RST coil, 50'-100' lengths.

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

Table V-5

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported products 5¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

* * * * *

Table V-6

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported products 6¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

* * * * *

Table V-7

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported products 7¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

Period	United States		China			Mexico		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2007:								
Jan.-Mar.	\$3.23	2,913,166	\$***	***	***	\$***	***	***
Apr.-June	3.77	3,843,203	***	***	***	***	***	***
July-Sept.	3.86	2,897,721	***	***	***	***	***	***
Oct.-Dec.	3.87	2,026,447	***	***	***	***	***	***
2008:								
Jan.-Mar.	3.70	2,447,430	***	***	***	***	***	***
Apr.-June	4.36	2,509,290	***	***	***	***	***	***
July-Sept.	4.27	2,273,696	***	***	***	***	***	***
Oct.-Dec.	3.05	1,477,516	***	***	***	***	***	***
2009:								
Jan.-Mar.	2.13	2,078,680	***	***	***	***	***	***
Apr.-June	2.53	2,247,601	***	***	***	***	***	***
July-Sept.	3.03	2,349,698	***	***	***	***	***	***
Oct.-Dec.	3.42	1,542,478	***	***	***	***	***	***
2010:								
Jan.-Mar.	3.85	2,340,490	***	***	***	***	***	***
Apr.-June	3.95	3,015,643	***	***	***	***	***	***

¹ Product 7: Seamless refined copper pipe and tube, 3/8" OD, smooth bore LWC, 0.0249"-0.0327" bottom wall thickness.

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

Table V-8

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported products 8¹ and margins of underselling/(overselling), by quarters, January 2007-June 2010

Period	United States		China			Mexico		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2007:								
Jan.-Mar.	\$***	***	-	0	-	\$***	***	***
Apr.-June	3.36	1,597,201	-	0	-	***	***	***
July-Sept.	3.68	1,322,295	-	0	-	***	***	***
Oct.-Dec.	3.68	904,853	-	0	-	***	***	***
2008:								
Jan.-Mar.	3.56	1,078,742	-	0	-	***	***	***
Apr.-June	4.15	1,311,172	\$***	***	***	***	***	***
July-Sept.	4.20	1,215,610	***	***	***	***	***	***
Oct.-Dec.	3.40	796,190	***	***	***	***	***	***
2009:								
Jan.-Mar.	2.23	1,073,860	***	***	***	***	***	***
Apr.-June	2.31	1,447,346	3.59	52,105	(55.5)	***	***	***
July-Sept.	2.80	1,092,576	3.04	63,057	(8.6)	***	***	***
Oct.-Dec.	3.13	783,508	3.31	26,062	(5.8)	***	***	***
2010:								
Jan.-Mar.	3.65	1,313,408	***	***	***	***	***	***
Apr.-June	3.73	1,921,574	***	***	***	***	***	***
¹ Product 8: Seamless refined copper pipe and tube, 3/4" OD, smooth bore LWC, 0.0327"-0.0430" bottom wall thickness. Source: Compiled from data submitted in response to Commission questionnaires.								

Figure V-2

SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product, by quarters, January 2007-June 2010

* * * * *

Table V-9
SRC pipe and tube: Summary of weighted-average f.o.b. prices for products 1-8 from the United States, China, and Mexico

Item	Number of quarters	Low price (per ton)	High price (per ton)	Change in price ¹ (percent)
Product 1				
United States	14	\$2.19	\$4.41	2.4
China	9	1.96	4.70	26.0
Mexico	14	2.14	4.30	5.2
Product 2				
United States	14	2.16	4.35	5.1
China	3	2.98	6.60	-54.9
Mexico	14	2.13	4.99	12.1
Product 3				
United States	14	2.47	4.87	9.7
China	14	2.29	4.74	-4.1
Mexico	14	2.52	4.70	6.3
Product 4				
United States	14	2.30	4.53	19.0
China	14	2.31	4.81	***
Mexico	13	2.34	4.44	19.1
Product 5				
United States	14	2.28	4.49	14.7
China	14	2.32	4.48	17.6
Mexico	4	3.72	4.25	-5.7
Product 6				
United States	14	2.32	4.71	9.9
China	15	2.48	4.60	3.9
Mexico	3	3.90	4.34	-5.3
Product 7				
United States	14	2.13	4.36	22.3
China	14	2.42	4.23	0.9
Mexico	14	2.19	4.21	9.0
Product 8				
United States	14	2.23	4.20	***
China	9	3.04	5.63	39.3
Mexico	14	2.27	4.30	17.8
¹ Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data.				
Source: Compiled from data submitted in response to Commission questionnaires.				

U.S.-produced products 1-8 increased by 2.4 to 22.3 percent. Weighted average sales prices of products 2 and 3 imported from China decreased by 4.1 to 54.9 percent, respectively, and prices of other products increased by 0.9 to 39.3 percent. Weighted average sales prices of products 5 and 6 imported from Mexico decreased by 5.7 and 5.3 percent respectively and prices of other products increased by 5.2 to 19.1 percent.

Price Comparisons

Margins of underselling and overselling for the period are presented in table V-10. As can be seen from the table, prices for SRC pipe and tube imported from China were below those for U.S.-produced SRC pipe and tube in 43 of 91 instances; margins of underselling ranged from 0.9 to 27.6 percent. In the remaining 48 instances, prices for SRC pipe and tube imported from China were above those for U.S.-produced SRC pipe and tube; margins of overselling ranged from 0.3 to 128.8 percent. Prices for SRC pipe and tube imported from Mexico were below those for U.S.-produced SRC pipe and tube in 53 of 90 instances; margins of underselling ranged from 0.0 to 23.3 percent. In the remaining 37 instances, prices for SRC pipe and tube imported from Mexico were above those for U.S.-produced SRC pipe and tube; margins of overselling ranged from 0.0 to 25.7 percent.

With the exception of reported sales of Chinese imports for products 3 and 4 by *** and reported sales of Chinese and Canadian imports of product 7 by ***, most U.S. producers and importers reported sales of products 1-4 for plumbing applications and sales of products 5-8 for industrial applications.⁶ U.S. producers reported sales of all eight price products for industrial applications and sales of products 1-4, 7, and 8 for plumbing applications. However, at least 97 percent of reported sales by U.S. producers of products 1-4 were for plumbing applications and sales of product 5-8 were for industrial applications. Likewise, over 90 percent of reported sales of Mexican imports of products 1-4 were for plumbing applications and all reported sales of imports from Mexico of products 5-8 were for industrial applications. All reported sales of Malaysia imports of product 5 were reported for industrial uses.

Table V-10
SRC pipe and tube: Instances of underselling/overselling and the range and average of margins, January 2007-June 2010

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
China	43	0.9 to 27.6	7.9	48	0.3 to 128.8	17.6
Mexico	53	0.0 to 23.3	3.6	37	0.0 to 25.7	5.9
Total	96	0.0 to 27.6	5.5	85	0.0 to 128.8	12.5

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

Importers reported sales of imports from China of products 1 and 3-8 for industrial applications, and sales of products 1-4 and 7 for plumbing applications. Reported sales for industrial applications of imports from China for products 1, 3 and 4 accounted for 3 percent, *** percent, and *** percent of sales of those products, respectively. However, ***. For sales of Chinese imports of product 7, ***, *** also

⁶ Importers ***.

Table V-11
SRC pipe and tube: Instances of underselling/overselling and the range and average of margins
by type of application, January 2007-June 2010

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
Industrial Applications						
China	50	1.2 to 55.1	11.5	31	0.9 to 87.3	16.2
Mexico	24	0.2 to 58.9	12.9	35	0.7 to 25.7	8.6
Total	74	0.2 to 58.9	11.9	66	0.7 to 87.3	12.1
Plumbing Applications						
China	24	1.5 to 26.5	9.1	29	0.0 to 128.9	16.6
Mexico	51	0.2 to 11.0	2.9	4	0.5 to 19.8	8.0
Total	75	0.2 to 26.5	4.9	33	0.0 to 128.9	15.6
Source: Compiled from data submitted in response to Commission questionnaires.						

reported sales of Canadian imports of products 1-4 and 7 for plumbing applications. Margins of underselling and overselling by applications are presented in table V-11.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of SRC pipe and tube to report any instances of lost sales or revenues they experienced due to competition from imports of SRC pipe and tube from China and/or Mexico since January 2006. Petitioners provided allegations of both lost sales and revenues in the petition. Of the seven responding non-petitioning U.S. producers, two reported that they had to either reduce prices or roll back announced price increases and two indicated that they had lost sales of SRC pipe and tube to imports from China and Mexico. One of these U.S. producers provided additional lost sales allegations.⁷ The 55 lost sales allegations totaled \$232 million and involved 75 million pounds of SRC pipe and tube and the 19 lost revenues allegations totaled \$1.4 million and involved 25 million pounds of SRC pipe and tube. Staff attempted to contact all of the alleged purchasers, and a summary of the information obtained follows (tables V-12 and V-13).

Thirteen of 19 responding purchasers named in lost sales and lost revenue allegations indicated that they switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China and Mexico since January 2006. Six of these 13 purchasers indicated that price was the reason for the shift. Of the seven purchasers that indicated that price was not the reason for the shift, three purchasers (***) indicated that domestic producers were not able to supply enough product, one purchaser (***) indicated that both availability and pricing were reasons for the switch, one purchaser (***) indicated that their “switch was caused by a better incentive from our buying group,” one purchaser (***) noted a quality, service, and lead-time reduction, and one purchaser (***) noted product quality

⁷ In addition, some petitioners provided additional lost sales and lost revenue allegation after the filing of the petition. These allegations were not included in this section.

Table V-12
SRC pipe and tube: U.S. producers' lost sales allegations

* * * * *

Table V-13
SRC pipe and tube: U.S. producers' lost revenue allegations

* * * * *

and performance. Four of 13 responding purchasers (***) named in lost sales and lost revenue allegations indicated that U.S. producers reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube from China or Mexico since January 2006. Three purchasers indicated that they were not certain if U.S. producers lowered their prices during this time period to compete with price of SRC pipe and tube from China or Mexico.

Purchasers specifically “agreed” with lost sales allegations totaling \$34 million and lost revenue allegations totaling \$19 thousand. The allegations that were “agreed” with represent 15 percent of the value of all lost sales allegations and 1 percent of the value of all lost revenue allegations made by U.S. producers. Purchasers specifically “disagreed” with lost sales allegations totaling \$184 million and lost revenue allegations totaling \$818 thousand. The allegations that were “disagreed” with represent 79 percent of the value of all lost sales allegations and 57 percent of the value of all lost revenue allegations. Purchasers did not specifically “agree” or “disagree” with lost sales allegations totaling \$10 million and lost revenue allegations totaling \$583 thousand, but provided narrative responses that are summarized on the following pages. These allegations represent 4 percent of the value of all lost sales allegations and 41 percent of the value of all lost revenue allegations.

*** disagreed with the *** lost sales allegations made against his company. *** indicated that the accepted quote for the imported product was not lower than the rejected quote for U.S. product. He indicated that the metal price was not a factor and that fabrication costs and duties above base metal costs were higher than the costs of U.S. product. *** also indicated that the U.S. supplier which had been his company’s ***. Prior to ***, he indicated that his company was satisfied with its U.S. vendor. *** indicated that while his firm had switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico since January 2006, price was not the reason for the shift. He indicated that his U.S. supplier was not able to supply material and forced it to find a second supplier, and that now his company is committed to maintain at least two suppliers. He also noted that to the best of his recollection, U.S. producers did not reduce their prices of SRC pipe and tube to compete with prices of SRC pipe and tube from China or Mexico.

*** of *** indicated that with regard to the lost sales allegation involving China in 2009 that it has not purchased from China and that with regard to the lost sales allegation involving Mexico in 2010 that the sales was lost to another domestic supplier. He indicated that each year his company solicits competitive quotes from qualified domestic and foreign mills and that regardless of price, no bid from a supplier will be considered unless *** quality requirements are met. He indicated that availability requirements in the form of reasonable lead times or inventories are necessary and that price including fabrication, surcharges, freight and terms are considered. He also indicated that the metal cost applies to all mills and is not a factor in the analysis.

*** of *** indicated that *** had no record of a quote or sale that could be used to confirm the lost sales allegation made by ***. *** indicated that *** does not import copper tubing from China.

*** of *** agreed with the lost sales allegation made by ***. He indicated that the accepted quote for imported product was \$***/lb (same as the domestic quoted price) for the metal and \$*** for fabrication and freight for a total value of \$***. *** indicated that *** uses both domestic and imported copper tube. He noted that ***'s SRC pipe and tube is highly engineered to *** and to date only domestic producer *** and a Chinese supplier have qualified to provide the raw copper tube that meet their quality specifications and tolerances. *** indicated that in order to be qualified, SRC pipe and tube must meet specifications regarding ***. He noted that *** attempted to qualify one additional domestic source, but the supplier was unable to provide a qualifying product. *** claimed that while his firm had switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China and Mexico since January 2006 and that price was a reason, it was not the only reason for the shift. He indicated that the industry has been particularly hard hit in the economic downturn because of the strong correlation between plumbing product demand and the strength or weakness of the housing market. *** indicated that sales of ***'s product are down for 2009 and that it accepted the U.S. producer's quote, but ordered less volume than the *** pounds offered. He also noted that historically ***'s purchases of SRC pipe and tube shifts between qualified suppliers based both on price and quality offered. *** also indicated that while U.S. producers reduced their prices in order to compete with prices of SRC pipe and tube from China or Mexico, that there have only been limited reductions since 2006 and no reductions in 2008 or 2009.

*** disagreed with the lost sales allegation made by ***. *** indicated that his company was planning on purchasing this order from *** and then selling to a customer, but that the purchase was not made since the customer decided not to purchase the product, although his firm did secure an order for this job (with different quantities) at a later date.⁸ He indicated that the customer said he was going to wait on the market and buy as needed in hope for better pricing. *** indicated that he had no idea what his competition's price was to customer and that his firm purchased the majority of its copper pipe from ***.

*** of *** disagreed with the lost sales allegation made by ***. *** indicated that the material purchased from their supplier was the same whether *** firm used domestic or foreign copper. While *** indicated that *** firm switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico, *** noted that, in January 2008 her firm switched to material from China because the U.S. supplier did not have adequate capacity to cover their needs. *** also indicated that since January 2006, U.S. producers did not reduce their prices in order to compete with prices of SRC pipe and tube from China or Mexico.

*** of *** disagreed with the lost sales allegation made by ***. He indicated that the supplier *** told him they could not keep up with their demand. *** noted that he pays \$***/lb. plus duties for imported copper tube and that the U.S. supplier *** indicated that they would not be able to supply his firm's needs. In regard to all of his purchases since January 2006, he indicated that while his firm switched purchases of SRC pipe and tube from U.S. producers to suppliers from China or Mexico, price was not the reason for the switch; rather the U.S. supplier *** could not supply his firm's requirements. *** also indicated that since January 2006 U.S. producers had raised their prices of SRC pipe and tube.

*** of *** agreed with the lost revenue allegation by ***. He indicated that since January 2006 his firm has not switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico, but that U.S. producers have reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico and that "it is still going on."

*** of *** agreed with the lost sales allegation made by ***. He indicated that the allegation included product provided under two jobs. *** indicated that the *** went to Mexico and the *** went to China. He indicated that since January 2006, his firm switched purchases of SRC pipe and tube from

⁸ Staff telephone interview with ***, October 16, 2009.

U.S. producers to suppliers of SRC pipe and tube from China or Mexico and that price was the reason for the switch. *** also reported that U.S. producers reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico. *** indicated that in several cases, the cost of the imported “finished product” was less than the raw material cost based on the COMEX price at the time of the closing bid.

*** of *** disagreed with the lost sales allegation made by ***. With regard to the *** allegation, he indicated that he is familiar with the quote from *** and indicates that his firm sent out the inquiry in line with the contract they had in place. *** noted that the number of short tons in the quote would represent about *** percent of *** total requirements so “capacity constraints are obvious.” While agreeing with the rejected quote numbers, he indicated that his firm did not pay the amount provided and that the amount noted in the “accepted quote” was not possible given the market price of metal at that time. *** indicated that *** was their sole supplier for several years prior to being replaced by U.S. producer *** due to major quality problems and that his firm incurred major production disruptions in 2004 due to lack of capacity in the U.S. market. *** indicated that his company went on the open market and purchased some material in 2004 from *** as well as from other U.S. and foreign suppliers due to capacity constraints in the United States. He claimed that the material his firm purchased from *** exhibited many of the same quality problems as when they were the primary supplier to ***. He noted that his firm moved away from ***. *** claims that ***, as well as all but one U.S. manufacturer of copper tube, does not have the ability to produce ***. He also indicated that since January 2006 his firm has not switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico. *** also noted that he cannot speak as to whether U.S. producers reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico since he has been under contract since 2005.

With regard to the *** allegation, he indicated that the product quoted by *** did not meet the mandatory requirements of the applicable *** specification including the *** and the ***. He indicated that differences of this magnitude would adversely affect ***. He also indicated that *** has subsequently placed a purchase order for manufacturing a trial quantity of the material but that *** has delayed this trial several times due to ***. *** also indicated that the capacity offered by *** would not provide sufficient material to allow *** to address its consumption requirements and that *** stipulated that before it would provide any material in 2011, *** would have to make a minimum of a *** year commitment before *** would ***.

*** of *** disagreed with the lost revenue allegation made by ***. He indicated that *** rejected the U.S. producer’s quote for all *** indicated that when the quote was revised to use the ***, only the price of the first item (which was for ***) was adjusted downward and that *** accepted this quotation with no other reductions. He also noted that the first item was awarded *** due to continued quality problems and tube weight issues and that *** material which they did not have with the material from the Chinese supplier. While *** indicated that since January 2006 his firm switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico, he indicated that his firm switched to imported material because of quality, service, and reduced lead times since the Chinese suppliers have U.S. representatives that warehouse finished goods for his firm. He also noted that he is not certain why *** lowered their price on the one item mentioned, but believes it was related to improvements in efficiencies as a result of production ***.

***.

*** of *** agreed with the lost sale allegation but he indicated that the volume was smaller ***. *** also indicated that he can not be certain that the sale was lost to imports pricing because the supplier sells both imported and U.S. produced SRC pipe and tube.

*** of *** agreed with one lost sales allegation made by *** and neither disagrees or agrees with another one. With regard to the April 2009 allegation, he agrees with the allegation indicating that since January 2006 his firm switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico and that price was the reason for the switch. *** also indicated that U.S. producers reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico. With regard to the October 2009 allegation, he indicated that he neither agreed or disagreed the allegation with the information given and needs a quote number or an email to verify the allegation. He indicated that suppliers of imports from China and Mexico have raised their prices as had U.S. producers. *** indicated that U.S. producers like *** will always keep their prices higher.

*** of *** indicated that in 2007 *** company only obtained the product described in the *** allegation from domestic sources of supply. *** indicated that since January 2006 *** firm had switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico, but that any sourcing decisions were driven by product quality and performance and not pricing. *** reported that U.S. producers have not reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube from China or Mexico and that any changes in U.S. producer pricing that may have occurred were did not influence to ***'s sourcing decisions. *** indicated that during August 2007, *** switched from purchasing from U.S. producer *** to Chinese producer ***. *** indicated that until 2009, ***.⁹

*** of *** disagreed with the *** allegation made by ***, indicating that the bid provided by the domestic producer was for ***. *** indicated the primary reason for switching to purchasing material produced by *** was quality as the *** used by the domestic supplier was prone to *** and as measured by defective parts per million, the performance was more than *** times worse than the *** that was selected to replace it.

*** of *** agreed with the lost revenue allegations made by ***. *** indicated that ***. He noted that the manufacturer had to lower its price to his firm because its wholesale customers would have purchased imported product if it could not meet competitive conditions.¹⁰ He indicated that since January 2006 his firm has not switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico, but that U.S. producers reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico.

*** of *** disagreed with the lost revenue allegation made by ***. His company's records do not show it purchasing tube from a second source on or around the date of the allegation nor do the records show it purchasing the alleged amount of the specified product at any time. He noted that his company may have made this quote and not received an order from its customer.

In response to the lost revenue allegation made by ***, *** of *** indicated that his company only purchases copper tube from "U.S. entities" and is not certain about the country of origin of the copper tubing that it purchases.

*** of *** disagreed with the lost revenue allegation made by ***. He did not find copper tubing imported from Mexico to be consistently cheaper than domestically produced copper tubing. *** indicated that domestic manufacturers were the low bidder as often as importers from Mexico were.

In response to the lost revenue allegation made by ***, *** of *** indicated that his company does not purchase or have sources to purchase imported copper tube. He stated that his purchases for *** were from domestic producers. *** indicated that he paid 5 percent more than the *** multiplier net

⁹ Email from ***.

¹⁰ Email from ***.

stated as the rejected quote for the U.S. product and that the U.S. producer did not lower its price. He responded that since January 2006, his firm has not switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico. *** added that although it is possible, he is not certain whether U.S. producers reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico.

*** of *** disagreed with the lost sale allegation made by ***. He indicated that this supplier was the highest bidder of all, including two other U.S. sources who would have gotten an order before this supplier with the pricing referenced. *** noted that the two items in the allegation had been purchased from *** for over 10 years and when that source ***, the Mexican source agreed to continue the supply at the same price. He indicated that the U.S. source referenced was quoted in September 2009, and it was told that it was not competitive although there are other U.S. suppliers with pricing that is competitive with Mexico and China. While *** indicated that since January 2006, his firm did switch purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico, he indicated that this switch was due to the availability of certain alloys in addition to pricing. *** also indicated that since January 2006, U.S. producers have not raised their prices of SRC pipe and tube.

*** of *** disagreed with the two lost sale allegations made by ***. He cannot find any documentation showing that his company received quotes for the dates provided in the allegations (***). *** indicated that the *** his company was using used to be produced ***. He indicated that fabrication costs did not change after ***. *** noted that his company was satisfied with the quality and services provided by *** and that he cannot find any documentation showing that *** was interested in switching to an alternative supplier for lower costs between the dates of the two allegations.

*** of *** agreed with the lost sales allegation made by ***. He indicated that his firm did switch purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico and that price was the reason for the switch. *** also indicated that U.S. producers reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico.

*** of *** disagreed with the two lost sales allegations and one lost revenue allegation made by ***. He agreed with one lost sales allegation made by *** and disagreed with another lost sales allegation. *** indicated that the *** pound allegation made by *** was awarded to a domestic supplier. He noted that the *** pound allegation was an unsolicited quote and that business for this product was already contractually committed for 2009. *** indicated that the lost revenue allegation was a quote from a U.S. producer for a price increase, and due to a sharp decrease in sales, *** was not accepting price increases. With regard to the 2009 lost sales allegation made by *** that he disagreed with, he indicated that the quote was for 2010 business and that *** is not "importing" copper tubing. ***'s purchaser questionnaire response indicates that *** only purchased copper pipe and tubing produced in the United States during the first six months of 2010, but that it purchased copper tubing imported from China each year from 2007 to 2009, ranging from *** pounds per year. With regard to the *** lost sales allegation that he agreed with, he noted that *** awarded this requirement to a Chinese producer, as well as a domestic producer, both of which quoted a lower price. He indicated that his firm switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico and that price was the reason for the switch. *** noted that *** still purchases significant quantities from U.S. producers but that it is important to have multiple supply sources. He also indicated that the HVAC industry has suffered a sharp decrease in sales, and that a reduction in prices could be the result of lower demand generally, and increased competition from domestic and foreign producers.

The representative for *** did not respond to the specific lost sales allegation. However, he did indicate that since January 2006, the firm switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico and that price was the reason for the switch. He also reported that U.S. producers did not reduce their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico.

*** of *** agreed with the lost sales allegation made by ***. He indicated that the fabrication cost of the imported quote was \$***/lb., plus a \$***/lb. premium. *** also indicated that sales were lost to imports from both China and Mexico (only Mexico was named in the allegation). He indicated that since January 2006, his firm switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico and that price was the reason for the switch. However, *** stated that U.S. producers had not reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico.

*** of *** did not specifically agree or disagree with the lost revenue allegation made by ***. *** indicated that his company places a premium on the use of domestic material and doesn't actively solicit information on imported copper. He responded that since January 2006, his firm has not switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico and that U.S. producers had not reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico.

*** of *** disagreed with the three lost sales allegation involving his company. He indicated that the quantity (approximately *** pounds) and value (approximately \$****) of the alleged lost sales are incorrect and are significantly higher than the company's annual purchases. *** also indicated that the only orders placed by *** for imported SRC pipe and tube in 2007 (the year of the allegation) was a purchase of *** in November and December 2007. He indicates that one of the main reasons for purchasing imported SCR pipe and tube was the payment terms offered by U.S. producer ***. According to ***, rather than extending credit terms to ***, ***.

*** of *** disagreed with the lost sales allegation made by ***. He indicated that he did not recall the quote. *** reported that since January 2006, his firm switched purchases of SRC pipe and tube from U.S. producers to suppliers of SRC pipe and tube from China or Mexico, but that price was not the reason for the switch, rather that ***. He also indicated that U.S. producers had not reduced their prices of SRC pipe and tube in order to compete with prices of SRC pipe and tube imported from China or Mexico.

*** of *** agreed with two sales allegations by *** and disagreed with another two allegations. Although he agreed with the allegations for *** 2008, he indicated that the quantities were smaller; *** pounds for the *** pound allegation and *** pounds for the *** pound allegation. *** disagreed with the other two allegations, indicating that his company has no record of the quote and that all 2009 purchases of these products have of domestically produced product.

PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCERS

Introduction

Twelve U.S. firms provided usable financial data on their operations on SRC pipe and tube.¹ These data are believed to account for the large majority of U.S. operations on SRC pipe and tube. Internal consumption and transfers to related firms were reported by several firms; however, these non-commercial transactions accounted for only *** percent of total net sales value in 2009 and are not presented separately in this section. All firms reported a fiscal year end on or near December 31 ***.²

Operations on SRC Pipe and Tube

Income-and-loss data for U.S. firms on their operations on SRC pipe and tube are presented in table VI-1, while selected financial data, by firm, are presented in table VI-2. The domestic industry experienced a continuous decline in net sales (quantity and value) and operating income from 2007 to 2009; however, both net sales and operating income improved between the comparable interim periods. The per-pound net sales value irregularly declined from 2007 to 2009, then improved in January-June 2010 to a level comparable to full year 2007. From 2007 to 2009, the per-pound net sales value declined more than operating costs and expenses (cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses, combined), thus leading to a decline in profits. Between the comparable interim periods, per-pound revenue increased more than operating costs and expenses, which led to improved profitability in January-June 2010 as compared to January-June 2009.

Raw material costs are the primary component of total COGS, accounting for 84 percent of total COGS during the period for which data were collected. While other components of COGS increased on a per-pound basis from 2007 to 2009, raw material costs (copper cathode, ingot, and/or scrap) declined by \$0.91, or 29 percent, from 2007 to 2009. Between the comparable interim periods, per-pound raw material costs increased by \$1.33, or 69 percent, while direct labor and other factory costs were stable. Thus, the overall change in per-pound COGS during the period examined is predominantly the result of fluctuations in raw material costs.

Petitioners’ state that conversion revenues (per-pound net sales values less per-pound raw material costs) provide a better measure of the industry’s financial performance since the price of copper is essentially passed through to customers. From 2007 to 2009, per-pound average conversion revenues irregularly declined from \$0.90 to \$0.83, then increased from \$0.78 to \$0.81 between the comparable interim periods.³

¹ The U.S. producers are ***. The company records underlying ***’s financial data were reviewed at Commission offices. ***.

² Full year financial data for all U.S. producers cover fiscal years 2007 to 2009. Separate financial data on industrial and plumbing SRC pipe and tube are presented in appendix E. ***.

³ Petitioners’ prehearing brief, pp. 50-51. Petitioners’ posthearing brief, exh. 9.

Table VI-1

SRC pipe and tube: Results of operations of U.S. producers, 2007-09, January-June 2009, and January-June 2010

Item	Fiscal year			January-June	
	2007	2008	2009	2009	2010
Quantity (1,000 pounds)					
Total net sales	772,482	649,879	526,474	277,322	286,115
Value (\$1,000)					
Total net sales	3,151,317	2,761,903	1,630,144	748,334	1,161,741
COGS	2,857,802	2,526,053	1,523,536	696,297	1,094,715
Gross profit	293,515	235,850	106,608	52,037	67,026
SG&A expenses	73,637	68,408	61,715	30,144	32,796
Operating income	219,878	167,442	44,893	21,893	34,230
Interest expense	9,376	7,206	4,003	1,534	2,514
Other income/(expense)	(850)	(705)	(5,605)	(473)	(478)
Net income	209,652	159,531	35,285	19,886	31,238
Depreciation	38,294	36,554	37,890	18,935	17,565
Cash flow	247,946	196,085	73,175	38,821	48,803
Ratio to net sales (percent)					
COGS:					
Raw materials	77.9	77.7	73.2	71.2	80.1
Direct labor	3.1	3.4	4.8	5.2	3.4
Other factory costs	9.7	10.4	15.5	16.6	10.7
Total COGS	90.7	91.5	93.5	93.0	94.2
Gross profit	9.3	8.5	6.5	7.0	5.8
SG&A expenses	2.3	2.5	3.8	4.0	2.8
Operating income	7.0	6.1	2.8	2.9	2.9
Net income	6.7	5.8	2.2	2.7	2.7
Unit value (per pound)					
Total net sales	\$4.08	\$4.25	\$3.10	\$2.70	\$4.06
COGS:					
Raw materials	3.18	3.30	2.27	1.92	3.25
Direct labor	0.13	0.14	0.15	0.14	0.14
Other factory costs	0.39	0.44	0.48	0.45	0.44
Total COGS	3.70	3.89	2.89	2.51	3.83
Gross profit	0.38	0.36	0.20	0.19	0.23
SG&A expenses	0.10	0.11	0.12	0.11	0.11
Operating income	0.28	0.26	0.09	0.08	0.12
Net income	0.27	0.25	0.07	0.07	0.11
Number of firms reporting					
Operating losses	2	3	3	3	5
Data	11	12	12	11	11
Source: Compiled from data submitted in response to Commission questionnaires.					

Table VI-2

SRC pipe and tube: Results of operations of U.S. producers, by firm, 2007-09, January-June 2009, and January-June 2010

* * * * *

While the overall industry, as well as ***, reported a general decline in profitability during the period examined, *** in January-June 2010.⁴ According to petitioners, ***. Further, petitioners' stated that per-pound selling expenses are lower for sales to OEMs as compared to sales of standard products to distributors and retailers.^{5 6 7}

Variance Analysis

The variance analysis presented in table VI-3 is based on the data in table VI-1. The analysis shows that the decline in operating income from 2007 to 2009 is primarily attributable to an unfavorable price variance that more than offset a favorable net cost/expense variance (that is, prices declined more than costs and expenses). Between the comparable interim periods, the improvement in operating income is primarily attributable to a favorable price variance that more than offset an unfavorable net cost/expense variance (that is, prices increased more than costs/expenses).⁸

⁴ The SRC pipe and tube industry experienced a slight decline in its operating margin in the last six months of 2009 (an operating margin of 2.6 percent) as compared to the first six months of 2009 (an operating margin of 2.9 percent). Calculated from table VI-1 in this section of the report. Staff notes that three firms have a fiscal year end other than December 31, which makes this calculation imprecise. However, it may serve as a gauge of trends in the SRC pipe and tube industry during 2009.

⁵ Petitioners' postconference brief, exh. 14.

⁶ SG&A expenses represent only 2.9 percent of total operating costs during the period for which data were collected, and are not a major factor behind the industry's reported financial performance.

⁷ During the period examined, the reported financial data for industrial and plumbing SRC pipe and tube revealed greater profitability for plumbing SRC pipe and tube, with operating income margins of 10.2 (2007), 9.5 (2008), 5.0 (2009), 7.1 (January-June 2009), and 4.5 (January-June 2010) percent. In contrast, operating income margins for industrial SRC pipe and tube were 3.3 (2007), 1.6 (2008), negative 0.9 (2009), negative 5.1 (January-June 2009), and 1.4 (January-June 2010) percent. Net sales quantities of plumbing SRC pipe and tube declined by 3.2 percent from 2007-09 and declined by 26.9 percent between the comparable interim periods, while net sales quantities of industrial SRC pipe and tube declined by 17 percent from 2007-09 and increased by 15 percent between the comparable interim periods. *See also* appendix E.

⁸ A variance analysis is calculated in three parts; sales variance, cost of sales variance, and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost variance (in the case of the cost of sales and SG&A expense variance) and a volume variance. The sales or cost variance is calculated as the change in unit price times the new volume, while the volume variance is calculated as the change in volume times the old unit price. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively; and the volume variance is the sum of the lines under price and cost/expense variance. The net volume component is generally the smallest component.

Table VI-3

SRC pipe and tube: Variance analysis on operations of U.S. producers, 2007-09, and January-June 2009-10

Item	Between fiscal years			Jan.-June
	2007-09	2007-08	2008-09	2009-10
Value (\$1,000)				
Total net sales:				
Price variance	(517,591)	110,741	(607,303)	389,680
Volume variance	(1,003,582)	(500,155)	(524,456)	23,727
Total net sales variance	(1,521,173)	(389,414)	(1,131,759)	413,407
Cost of sales:				
Cost variance	424,158	(121,822)	522,847	(376,341)
Volume variance	910,108	453,571	479,670	(22,077)
Total cost variance	1,334,266	331,749	1,002,517	(398,418)
Gross profit variance	(186,907)	(57,665)	(129,242)	14,989
SG&A expenses:				
Expense variance	(11,529)	(6,458)	(6,297)	(1,696)
Volume variance	23,451	11,687	12,990	(956)
Total SG&A variance	11,922	5,229	6,693	(2,652)
Operating income variance	(174,985)	(52,436)	(122,549)	12,337
Summarized as:				
Price variance	(517,591)	110,741	(607,303)	389,680
Net cost/expense variance	412,629	(128,280)	516,550	(378,037)
Net volume variance	(70,023)	(34,898)	(31,795)	694
Note.-- Unfavorable variances are shown in parentheses; all others are favorable.				
Source: Compiled from data submitted in response to Commission questionnaires.				

Capital Expenditures and Research and Development Expenses

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are shown in table VI-4. Ten firms provided capital expenditure data, and four firms provided data on R&D expenses. Capital expenditures declined irregularly from 2007 to 2009, and also declined between the comparable interim periods. Cerro and KobeWieland reported ***. Cerro's capital expenditures primarily reflect the completion of an expansion and modernization program at the firm's Cedar City, UT, facility, while KobeWieland's capital expenditures primarily reflect ongoing expenditures for expansion and modernization of the firm's Pine Hall, NC, facility.^{9 10}

⁹ Petitioners' postconference brief, exhibit 14.

¹⁰ Capital expenditures for industrial SRC pipe and tube represented the majority of reported total capital expenditures during the period for which data were requested, ranging from 55.6 percent in January-June 2009 to 78.5 percent in 2008. While capital expenditures for industrial SRC pipe and tube declined irregularly from 2007-09, such expenditures increased irregularly for plumbing SRC pipe and tube. Capital expenditures for both industrial and plumbing SRC pipe and tube declined between the comparable interim periods. *See also* appendix E.

Table VI-4

SRC pipe and tube: Capital expenditures and research and development expenses of U.S. producers, 2007-09, January-June 2009, and January-June 2010

Item	Fiscal year			January-June	
	2007	2008	2009	2009	2010
Value (\$1,000)					
Capital expenditures:					
Total	41,162	45,241	34,090	17,231	6,024
R&D expenses:					
Total	1,865	2,137	2,239	1,115	1,132

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

Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of SRC pipe and tube to compute return on investment ("ROI"). Data on the U.S. producers' total assets and their ROI are presented in table VI-5. From 2007 to 2009, the total assets for SRC pipe and tube decreased from \$1.3 billion in 2007 to \$1.0 billion in 2009, and the ROI declined from 17.5 percent in 2007 to 4.4 percent in 2009.

Table VI-5

SRC pipe and tube: Asset values and return on investment of U.S. producers, 2007-09

Item	Fiscal year		
	2007	2008	2009
Value of assets:			
Value (\$1,000)			
Current assets:			
Cash and equivalents	213,394	204,279	153,714
Accounts receivable, net	306,044	213,395	176,264
Inventories	288,526	190,055	212,997
Other	83,617	72,541	112,469
Total current assets	891,581	680,270	655,444
Property, plant and equipment:			
Original cost	771,968	834,499	841,490
Less: accumulated depreciation	488,897	535,859	548,750
Equals: book value	283,071	298,640	292,740
Other non-current assets	79,259	81,103	74,874
Total assets	1,253,911	1,060,013	1,023,058
Operating income or (loss)			
	219,878	167,442	44,893
Return on investment			
	17.5	15.8	4.4

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

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of SRC pipe and tube to describe any actual or potential negative effects of imports of SRC pipe and tube from China and Mexico on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Their responses are next.

Actual Negative Effects

* * * * *

Anticipated Negative Effects

* * * * *

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 factors¹--

(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,

(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

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider *** . . . 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.”

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).²

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 and the global market.

THE INDUSTRY IN CHINA

The Chinese SRC pipe and tube industry has experienced significant recent expansion in response to the country's rapid growth in demand by downstream industry sectors driven by China's rapid overall economic development. However, according to the 2009 U.S. Geological Survey, although Chinese smelter and refinery capacity has expanded in recent years, its mine and refinery production are insufficient to meet growing domestic consumption needs for refined copper,³ so China is a leading global importer of copper in the forms of refined metal and scrap.⁴

In 2009, there were reportedly 18 major SRC pipe and tube producers in China with a combined capacity of approximately 2 billion pounds (operating at 35 percent capacity).⁵ The Commission requested data from the 14 firms that were listed in the petition as producing SRC pipe and tube in China during the period of the investigation. The Commission received a response from eight firms,⁶ and data regarding the Chinese industry are based on the eight foreign producer questionnaires received. These responses are believed to account for approximately *** of Chinese export shipments to the United States in 2009.⁷ In addition to the responding Chinese producers of SRC pipe and tube, U.S. importers

² 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."

³ Pui Kwan Tse, "The Mineral Industry of China," *2007 Mineral Yearbook* (advanced release), U.S. Geological Survey, February 2009, pp. 9.5 – 9.6.

⁴ *Ibid.*, pp. 9.3 and 9.23.

⁵ Petitioners' postconference brief, page 4.

⁶ Producers in China that submitted foreign producer questionnaires were: ***.

⁷ According to testimony presented at the hearing, Golden Dragon is by far the largest exporter of Chinese tubes, and Golden Dragon exports almost exclusively inner groove tube that it produces using the cast and roll process.

continue...

identified the following producers/exporters as other Chinese sources for their imports of SRC pipe and tube: ***.

Table VII-1 presents information on the Chinese industry's SRC pipe and tube operations. Chinese capacity increased 17.3 percent from 2007 to 2009, increased 9.5 percent between the interim periods, and were projected to increase in 2010 and 2011. The share of Chinese exports to the United States increased from 8.6 percent in 2007 to 8.9 percent in 2009. The share of Chinese exports to all other countries decreased from 21.5 percent in 2007 to 15.6 percent in 2009.⁸

⁷ ...continue

Hearing transcript, p. 170 (Rogers).

⁸ These other export markets include: ***.

Table VII-1
SRC pipe and tube: Chinese production capacity, production, shipments, and inventories, 2007-09, January-June 2009, January-June 2010, and projected 2010-11

Item	Actual experience					Projections	
	2007	2008	2009	January-June		2010	2011
				2009	2010		
Quantity (1,000 pounds)							
Capacity ¹	1,015,514	1,103,084	1,191,010	588,740	644,404	1,207,614	1,229,660
Production	894,589	904,116	1,045,492	459,804	558,254	1,094,771	1,095,986
End of period inventories	20,989	16,098	20,151	15,990	23,869	21,942	23,316
Shipments							
Internal consumption/ transfers	79,303	76,206	113,072	54,372	37,688	81,286	66,529
Home market	545,332	532,280	679,786	317,164	394,888	769,641	813,162
Exports to-- The United States	76,725	103,417	93,143	51,500	33,265	50,436	11,165
All other markets	191,978	199,083	164,369	86,745	101,899	191,572	206,390
Total exports	268,703	302,500	257,512	138,245	135,164	242,008	217,555
Total shipments	893,338	910,986	1,050,370	509,781	567,740	1,092,935	1,097,246
Ratios and shares (percent)							
Capacity utilization	88.1	82.0	87.8	78.1	86.6	90.7	89.1
Inventories to production	2.3	1.8	1.9	1.7	2.1	2.0	2.1
Inventories to total shipments	2.3	1.8	1.9	1.6	2.1	2.0	2.1
Share of total quantity of shipments: Internal consumption/ transfers	8.9	8.4	10.8	10.7	6.6	7.4	6.1
Home market	61.0	58.4	64.7	62.2	69.6	70.4	74.1
Exports to-- The United States	8.6	11.4	8.9	10.1	5.9	4.6	1.0
All other markets	21.5	21.9	15.6	17.0	17.9	17.5	18.8
All export markets	30.1	33.2	24.5	27.1	23.8	22.1	19.8
<p>¹ ***</p> <p>Note.— Because of rounding, figures may not add to the totals shown.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>							

Chinese producers of SRC pipe and tube were asked if they had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of their operations or organization relating to the production of SRC pipe and tube since January 1, 2007. Five Chinese producers provided responses which are presented in table VII-2.

Table VII-2
SRC pipe and tube: Changes in Chinese producers' production operations

* * * * *

When asked to describe constraints on production capacity, Chinese producers of SRC pipe and tube reported: ***. Table VII-3 presents the Chinese producers' share of their total sales represented by sales of SRC pipe and tube. *** Chinese producer reported producing other products on the same equipment and machinery used to produce SRC pipe and tube.⁹

Table VII-3
SRC pipe and tube: Share of Chinese producers' total sales

* * * * *

THE INDUSTRY IN MEXICO

The Commission requested data from five producers of SRC pipe and tube in Mexico. The Commission received responses from five firms, which are believed to account for *** of Mexican export shipments to the United States in 2009.¹⁰

Table VII-4 presents information on the Mexican industry's operations in Mexico.¹¹ Mexican producers' capacity increased by *** percent from 2007 to 2009 and was *** percent higher in interim 2010 when compared to interim 2009. Mexican production of SRC pipe and tube decreased by *** percent from 2007 to 2009. Mexican capacity utilization *** percent in 2007 to *** percent in 2009.

The volume of Mexican producers' shipments to its home market ranged from *** percent in 2007 to *** percent in interim 2010. The *** of Mexican producers' exports was exported to the United States, and ranges from *** percent to *** percent of total shipments.¹²

One Mexican producer, Luvata Monterrey, began production in 2009 ***.¹³ Another Mexican producer, Golden Dragon Affiliates, opened a plant in Monclova at the end of September 2009 and

⁹ ***.

¹⁰ Producers in Mexico that submitted foreign producer questionnaires were: ***.

¹¹ The Mexican SRC pipe and tube industry relies upon both domestic and foreign sources of copper imports.

¹² The other export markets are ***.

¹³ Luvata Monterrey foreign producer questionnaire, page 4. The facility located in the Monterrey area of Nuevo Leon, Mexico reportedly focuses on sales to both large OEM manufacturers and smaller local customers in the air conditioning and heating industry using Luvata's own cast and roll technology. See "Luvata announces official opening of multi-million dollar copper-tube manufacturing plant," <http://www.luvata.com/zh-cn/News-Room/Press-Releases/Luvata-announces-official-opening-of-multi-million-dollar/>, retrieved September 9, 2010.

projects capacity at the plant to be approximately ***.¹⁴ According to testimony presented at the hearing, Golden Dragon built this Mexican facility to produce the same product it was importing from China and that it “has had plans over time to replace the products imported from China with Mexican product to the United States.”¹⁵

According to testimony presented at the hearing, IUSA shifted most of its production to its U.S. subsidiary, Cambridge-Lee in Reading, PA, in 2009.¹⁶ Respondents argue that the decision to shift production to the United States was based on: freight cost savings; Buy America requirements; cheaper electricity and gas costs; production efficiencies; and minimal labor cost differentials.¹⁷

Table VII-4
SRC pipe and tube: Mexican production capacity, production, shipments, and inventories, 2007-09, January-June 2009, January-June 2010, and projected 2010-11

* * * * *

Mexican producers of SRC pipe and tube were asked if they had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of their operations or organization relating to the production of SRC pipe and tube since January 1, 2007. Three Mexican producers provided responses which are presented in table VII-5.

Table VII-5
SRC pipe and tube: Changes in Mexican producers’ production operations

* * * * *

Table VII-6 presents the Mexican producers’ share of their total sales represented by sales of SRC pipe and tube.

Table VII-6
SRC pipe and tube: Share of Mexican producers’ total sales

* * * * *

¹⁴ The plant is located in the northern Mexican state of Coahuila. At the launching ceremony, Li Changjie, president of Golden Dragon, said the Monclova plant was part of a global strategy which would allow his company to meet the demand in North America and Europe. See “Golden Dragon opens copper pipe plant in Mexico,” http://www.steelguru.com/metals_news/Golden_Dragon_opens_copper_pipe_plant_in_Mexico/118419.html, retrieved September 9, 2010.

¹⁵ Hearing transcript, p. 153 (Weil).

¹⁶ Hearing transcript, p. 180 (Kerins). ***. According to documents provided in IUSA/Nacobre/Cambridge-Lee/Copper and Brass International’s posthearing brief, Cambridge-Lee ramped up production of plumbing pipe and decreased imports from Mexico *** and ***. Respondents posthearing brief (IUSA, Nacobre, Cambridge-Lee, and Copper and Brass International), p. 2 ***.

¹⁷ Hearing transcript, pp. 174-175 (Ochoa).

U.S. IMPORTERS' INVENTORIES OF SRC PIPE AND TUBE

Data collected in these investigations on U.S. importers' end-of-period inventories of SRC pipe and tube are presented in table VII-7.

Table VII-7

SRC pipe and tube: U.S. importers' end-of-period inventories of imports, 2007-09, January-June 2009, and January-June 2010

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

Two U.S. importers reported imports or the arrangement of imports of SRC pipe and tube of 4.1 million pounds from China, and six importers reported the arrangement of imports of 2.3 million pounds from Mexico after June 30, 2010.

ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS IN THIRD-COUNTRY MARKETS

SRC pipe and tube have not been subject to any import relief investigation in other countries.

INFORMATION ON PRODUCERS IN NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury "by reason of subject imports," the legislative history states "that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) 'to ensure that it is not attributing injury from other sources to the subject imports.'"¹⁸ Canada and Malaysia are leading nonsubject sources for U.S. imports of SRC pipe and tube.

Canada

Wolverine Tube (Canada) Inc. (Wolverine-Canada) is a major producer of SRC pipe and tube in Canada.¹⁹ As part of its plans to exit the North American residential plumbing tube market, parent-company Wolverine Tube Inc. (Wolverine) announced, in July 2008, the sell-off of Wolverine-Canada's residential plumbing tube operations, to focus on heat-transfer tubing, fabricated assemblies, and metal-joining products.²⁰ Subsequently, Wolverine-Canada's product line was expanded beyond uncoated SRC pipe and tube through acquisition of Kamco Products (Kamco) in November 2008, a leading Canadian and North American producer of coated SRC pipe and tube.²¹ Kamco's plastic-coated SRC pipe and tube is encased in polyethylene for corrosion resistance in conveyance of fuel oil, natural gas and liquified

¹⁸ Mittal Steel Point Lisas Ltd. V. United States, Slip Op. 2007-1552 at 17 (Fed. Cir. Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay round Agreements Act, H.R. Rep. 103-316, Vol. 1 at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 32006).

¹⁹ Petition, p. 25.

²⁰ Wolverine, "Wolverine Tube Sells Canadian Plumbing Tube Unit for \$42 Million," press release, July 8, 2008.

²¹ Wolverine-Canada, Kamco Div., "Wolverine Tube (Canada) Inc. Acquires the Assets of Kamco Products, a Division of Granby Steel Tanks," November 1, 2008.

petroleum gas, and potable water in industrial and municipal service sectors.²² Further information was not available about Wolverine-Canada's annual production capacity.

Malaysia

MetTube Sdn Bhd (MetTube) is the first integrated mill in Malaysia that produces SRC pipe and tube from melting, casting, extruding, and drawing of refined copper.²³ Both smooth and inner-groove SRC pipe and tube are produced by MetTube for the air conditioning and refrigeration industries. MetTube's tubing is available either unannealed or with varying degrees of annealing; and in spooled coils, pancake coils, and straight lengths.²⁴ MetTube's tubing is produced to several different foreign-market specifications, including ASTM B-75, the U.S. specification for seamless copper tube for general engineering applications.²⁵ Total annual production capacity at MetTube's facility in Selangor state is nearly 26,500 short tons per annum.²⁶ The extent of MetTube's globalized marketing is its claim to be shipping to customers and partners in 31 countries worldwide.²⁷

Outokumpu Copper Products (Malaysia) Sdn. Bhd. (Outokumpu-Malaysia) is a producer of SRC pipe and tube for air conditioning and refrigeration (ACR), along with copper profiles and sections,²⁸ as a member of Luvata (formerly Outokumpu Copper Products before May 2006) since 1998.²⁹ Further information was not available about Outokumpu-Malaysia's annual production capacity.

²² Kamco, "Profile;" and "Products."

²³ MetTube was established in 1991 as a joint venture between Metdist Ltd. (United Kingdom) and Mitsubishi Materials Corp. (Japan). MetTube, "MetTube & You- Chairman Statement;" and MetTube, "Virtual Tour- MetTube Today."

²⁴ MetTube, "MetTube & You- Product Range."

²⁵ MetTube, "MetTube & You- Product Specifications."

²⁶ Total annual production capacity originally reported as 24,000 metric tons. MetTube, "MetTube & You- MetTube Today."

²⁷ Ibid.; and MetTube, "Tube & You- Global Market."

²⁸ *E-Directory.com.my, Malaysia Manufacturers Directory*, "Outokumpu Copper Products (Malaysia) Sdn Bhd (417125-K).

²⁹ Luvata, "About Luvata, Our History," 2009.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION****[Investigation Nos. 731-TA-1174-1175
(Final)]****Seamless Refined Copper Pipe and
Tube From China and Mexico****AGENCY:** International Trade
Commission.**ACTION:** Scheduling of the final phase
of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731-TA-1174-1175 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China and Mexico of seamless refined copper pipe and tube, provided for in subheadings 7411.10.10 and 8415.90.80 of the Harmonized Tariff Schedule of the United States.¹

¹ For purposes of these investigations, the Department of Commerce has defined the subject merchandise as “all seamless circular refined copper pipe and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter (“OD”), regardless of wall thickness, bore (e.g., smooth, enhanced with innergrooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled bent, wound on spools). The scope covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (“ASTM”) ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-B359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope of these investigations are all sets of covered products, including “line sets” of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase “all sets of covered products” denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

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

DATES: *Effective Date:* May 5, 2010.

FOR FURTHER INFORMATION CONTACT:

Edward Petronzio (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background: The final phase of these investigations are being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of seamless refined copper pipe and tube from China and Mexico are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). These investigations were requested in a petition filed on September 30, 2009, by Cerro Flow Products, Inc., St. Louis, MO; Kobe Wieland Copper Products, LLC, Pine Hall, NC; Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc., Memphis, TN.

Participation in the investigations and public service list: Persons, including industrial users of the subject merchandise and, if the merchandise is

sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list: Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report: The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on September 9, 2010, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing: The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on September 23, 2010, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 17, 2010. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 21, 2010, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2),

201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions: Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is September 16, 2010. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is September 30, 2010; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before September 30, 2010. On October 20, 2010, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 22, 2010, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

"Refined copper" is defined as: (1) Metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits: Ag-Silver 0.25; As-Arsenic 0.5; Cd-Cadmium 1.3; Cr-Chromium 1.4; Mg-Magnesium 0.8; Pb-Lead 1.5; S-Sulfur 0.7; Sn-Tin 0.8; Te-Tellurium 0.8; Zn-Zinc 1.0; Zr-Zirconium 0.3; Other elements (each) 0.3. Excluded from the scope of these investigations are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to these investigations are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090, of the Harmonized Tariff Schedule of the United States (HTS). Products subject to these investigations may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085.

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

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: June 7, 2010.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010-14035 Filed 6-10-10; 8:45 am]

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2010) (“*Preliminary Determination*”).¹ We selected the following companies for individual examination: IUSA S.A. de C.V. (“IUSA”) and Nacional de Cobre, S.A. de C.V. (“Nacobre”).

See *Preliminary Determination*, 75 FR at 26726.

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by IUSA and Nacobre. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by IUSA and Nacobre.² All verification reports are on file and available in the Central Records Unit (“CRU”), Room 7046, of the main Department of Commerce building.

On July 23, 2010 and July 26, 2010, respectively, IUSA and Nacobre, submitted sales and cost databases with revisions that reflect the minor corrections presented during their respective verifications.³ IUSA, Nacobre, and the petitioners⁴ filed their case briefs with the Department on August 4, 2010, and rebuttal briefs on August 10, 2010. At the petitioners’ request, we held a hearing on August 12, 2010.

We used IUSA’s July 23, 2010, and Nacobre’s July 26, 2010, sales and cost databases to calculate IUSA’s and Nacobre’s antidumping duty margin. No parties have objected to the use of these databases.

On September 13, 2010, the Department placed a memorandum on the record of this case regarding a recent

ex parte meeting in which Francisco J. Sánchez, Under Secretary for International Trade Administration met with Mr. Carlos Peralta, President and Director General of IUSA. The Department invited interested parties to comment on this memorandum by September 17, 2010; however, no comments were received.

Period of Investigation

The period of investigation (“POI”) is July 1, 2008, to June 30, 2009. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition. See 19 CFR 351.204(b)(1).

Scope of Investigation

For the purpose of this investigation, the products covered are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter (“OD”), regardless of wall thickness, bore (*e.g.*, smooth, enhanced with inner grooves or ridges), manufacturing process (*e.g.*, hot finished, cold-drawn, annealed), outer surface (*e.g.*, plain or enhanced with grooves, ridges, fins, or gills), end finish (*e.g.*, plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (*e.g.*, plastic, paint), insulation, attachments (*e.g.*, plain, capped, plugged, with compression or other fitting), or physical configuration (*e.g.*, straight, coiled, bent, wound on spools).

The scope of this investigation covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (“ASTM”) ASTM–B42, ASTM–B68, ASTM–B75, ASTM–B88, ASTM–B88M, ASTM–B188, ASTM–B251, ASTM–B251M, ASTM–B280, ASTM–B302, ASTM–B306, ASTM–359, ASTM–B743, ASTM–B819, and ASTM–B903 specifications and meeting the physical parameters described therein. Also included within the scope of this investigation are all sets of covered products, including “line sets” of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase “all sets of covered products” denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

“Refined copper” is defined as: (1) Metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–838]

Seamless Refined Copper Pipe and Tube From Mexico: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (“the Department”) has determined that imports of seamless refined copper pipe and tube (“copper pipe and tube”) from Mexico are being, or are likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 735 of the Tariff Act of 1930, as amended (“the Act”). The estimated margins of sales at LTFV are listed in the “Continuation of Suspension of Liquidation” section of this notice.

DATES: *Effective Date:* October 1, 2010.

FOR FURTHER INFORMATION CONTACT: Joy Zhang or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–1168 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 2010, the Department published in the *Federal Register* its preliminary determination on copper pipe and tube from Mexico. See *Seamless Refined Copper Pipe and Tube from Mexico: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 26726 (May 12,

¹ On May 28, 2010, the Department also published in the *Federal Register*, *Seamless Refined Copper Pipe and Tube From Mexico: Correction to Notice of Preliminary Determination of Sales at Less Than Fair Value 75 FR 29990 (May 28, 2010) and Postponement of Final Determination to correct the Scope section of the Preliminary Determination*.

² See Memorandum to the File titled “Verification of the Sales Response of IUSA S.A. de C.V. (“IUSA”) and its affiliates (“IUSA”) in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico, dated July 21, 2010” “Verification of the Cost Response of IUSA, S.A. de C.V. in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico, dated July 19, 2010” “Verification of the Sales Response of Nacobre, S.A. de C.V. and its affiliates (“Nacobre”) in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico,” dated July 21, 2010, and “Verification of the Cost Response of Nacobre, S.A. de C.V. and its affiliates (“Nacobre”) in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico,” dated July 22, 2010.

³ See IUSA’s July 23, 2010, and Nacobre’s July 26, 2010, submission of the sales and cost databases.

⁴ The petitioners in this investigation are Cerro Flow Products, Inc., KobeWieland Copper Products, LLC, Mueller Copper Tube Products, Inc., and Mueller Copper Tube Company, Inc. (collectively, “petitioners”).

content by weight of any other element does not exceed the following limits:

Element	Limiting content percent by weight
Ag—Silver	0.25
As—Arsenic	0.5
Cd—Cadmium	1.3
Cr—Chromium	1.4
Mg—Magnesium	0.8
Pb—Lead	1.5
S—Sulfur	0.7
Sn—Tin	0.8
Te—Tellurium	0.8
Zn—Zinc	1.0
Zr—Zirconium	0.3
Other elements (each)	0.3

Excluded from the scope of this investigation are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to this investigation are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Products subject to this investigation may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping duty investigation are addressed in the “Issues and Decision Memorandum for the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico” (“Decision Memorandum”) from Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Susan H. Kuhbach, to Deputy Assistant Secretary for Import Administration Ronald K. Lorentzen, dated September 24, 2010, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in the CRU of the main Department of Commerce building, Room 7046, and is accessible on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations for IUSA and Nacobre based on the sales and cost verifications.⁵

Cost of Production

As explained in the *Preliminary Determination*, we conducted an investigation concerning sales at prices below the cost of production in the home market. We found that, for certain specific products, more than 20 percent of IUSA and Nacobre’s home market sales were at prices less than the cost of production and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act. Based on this test, for this final determination we have disregarded below-cost sales by IUSA and Nacobre.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after May 12, 2010, the date of the publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated below, as follows: (1) The rates for IUSA and Nacobre will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 28.16 percent as discussed in the “All-Others

⁵ For a discussion of these changes, see the Issues and Decision Memorandum and memorandum titled, “Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico—Sales Analysis Memorandum for IUSA” (“USA Sales Analysis Memo”); “Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico—Sales Analysis Memorandum for Nacobre” (“Nacobre Sales Analysis Memo”); “Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—IUSA” (“IUSA Cost Analysis Memo”); and “Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—Nacobre” (“Nacobre Cost Analysis Memo”), dated September 24, 2010.

Rate” section below. These suspension-of-liquidation instructions will remain in effect until further notice.

Final Determination

The final antidumping duty margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
IUSA S.A. de C.V.	24.89
Nacional de Cobre, S.A. de C.V.	31.43
All Others	28.16

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “All Others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. IUSA and Nacobre are the only respondents in this investigation for which the Department has calculated a company-specific rate that is not zero or *de minimis*. Therefore, because there are only two relevant weighted-average dumping margins for this final determination and because using a weighted average risks disclosure of business proprietary information, the “all others” rate is a simple-average of these two values, which is 28.16 percent.⁶

Disclosure

The Department will disclose the calculations performed in connection with this final determination within five days of the date of publication of this notice to parties in this proceeding. See 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury or threat of material injury to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC

⁶ See *Steel Wire Garment Hangers from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 47587, 47591 (August 14, 2008).

determines that such injury does exist, we will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. See 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: September 24, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

List of Issues in the Issues and Decision Memorandum

Comment 1: Comments Regarding the Investigation

Comment 2: Alternative Cost Averaging Methodology

Comment 3: Cost Recovery Test

Comment 4: Model Matching Hierarchy

Comment 5: Nacobre's U.S. Date of Sale

Comment 6: Treatment of Nacobre's General and Administrative Expense Ratio

Comment 7: Nacobre's Weight Basis

Comment 8: Treatment of the Negative Value of Certain U.S. Expense Variables for IUSA

Comment 9: Treatment of Early Payment Discounts for IUSA's Home Market Sales

Comment 10: IUSA's Packing Costs

Comment 11: Further Manufactured Line Sets

Comment 12: "All Others" Rate

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DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-964]

Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

DATES: *Effective Date:* October 1, 2010.

SUMMARY: On May 12, 2010, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping duty investigation of seamless refined copper pipe and tube ("copper pipe and tube") from the People's Republic of China ("PRC").¹ The Department invited interested parties to comment on the *Preliminary Determination*. Based on the Department's analysis of the comments received, the Department has made changes from the *Preliminary Determination*. The Department determines that copper pipe and tube from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended (the "Act"). The final dumping margins for this investigation are listed in the "Final Determination" section below.

FOR FURTHER INFORMATION CONTACT:

Karine Gziryan or Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4081 and (202) 482-0679, respectively.

SUPPLEMENTARY INFORMATION:**Background**

The Department published its *Preliminary Determination* of sales at LTFV and postponement of the final determination on May 12, 2010.

Between May 24, 2010, and June 1, 2010, the Department conducted verification of mandatory respondents Golden Dragon Precise Copper Tube Group, Inc. ("Golden Dragon") and Zhejiang Hailiang Co., Ltd., Shanghai Hailiang Copper Co., Ltd., and Hong Kong Hailiang Metal Trading Limited (collectively, the "Hailiang Group").²

¹ See *Seamless Refined Copper Pipe and Tube from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 26716 (May 12, 2010) ("*Preliminary Determination*").

² See the "Verification" section below.

Cerro Flow Products, Inc., KobeWieland Copper Products, LLC, Mueller Copper Tube Company, Inc. (collectively, "Petitioners"), Golden Dragon, and the Hailiang Group submitted case briefs on July 2, 2010.³ On July 9, 2010, Petitioners, Golden Dragon, and the Hailiang Group filed rebuttal briefs.⁴ The Department conducted a public hearing on August 4, 2010.

On August 3, 2010, the Department notified parties that as a result of the recent decision in *Dorbest Ltd. v. United States*, 604 F.3d 1363 (Fed. Cir. 2010) ("*Dorbest*"), issued by the United States Court of Appeals for the Federal Circuit ("CAFC") on May 14, 2010, the Department would be reconsidering its valuation of the labor wage rate in this investigation. The Department placed export data on the record of the investigation and gave parties an opportunity to comment on the narrow issue of the labor wage value in light of the CAFC's decision.⁵ On August 9, 2010, Petitioners and Golden Dragon submitted comments regarding the wage rate issue.⁶

Period of Investigation

The period of investigation ("POI") is January 1, 2009, through June 30, 2009. This period corresponds to the two most recent fiscal quarters prior to the month

³ See Letter from Petitioners to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China; Investigation; Case Brief of Petitioners" (July 2, 2010); Letter from Golden Dragon to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China" (July 2, 2010); Letter from the Hailiang Group to the Secretary of Commerce, "Seamless Refined Copper Pipe & Tube from the People's Republic of China: The Hailiang Group—Administrative Case Brief" (July 2, 2010).

⁴ See Letter from Petitioners to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China; Investigation; Rebuttal Brief of Petitioners" (July 9, 2010); Letter from Golden Dragon to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China" (July 9, 2010); Letter from the Hailiang Group to the Secretary of Commerce, "Seamless Refined Copper Pipe & Tube from the People's Republic of China: Rebuttal Brief of the Hailiang Group" (July 9, 2010).

⁵ See Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Wage Data" (August 3, 2010).

⁶ See Letter from Petitioners to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from China; Petitioners' Comments on the Surrogate Value for Labor" (August 9, 2010); Letter from Golden Dragon to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China: Golden Dragon Precise Copper Tube Group, Inc." (August 9, 2010).

of the filing of the petition (*i.e.*, September, 2009).⁷

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation, as well as comments received pursuant to the Department's requests, are addressed in the Issues and Decision Memorandum.⁸ A list of the issues which parties raised and to which the Department responds in the Issues and Decision Memorandum is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document that is on file in the Central Records Unit, Room 7046 of the main Commerce building and accessible at <http://trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Changes Applicable to Multiple Companies

1. Pursuant to *Dorbest*, the Department calculated an hourly wage rate by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.⁹

2. The Department made several adjustments to the calculations of the surrogate financial ratios.¹⁰

Changes Specific to Golden Dragon

1. The Department treated Golden Dragon's copper cathode purchases from a certain PRC supplier as market economy purchases.¹¹

2. In accordance with section 777A(a)(2) of the Act and 19 CFR 351.413, the Department declined to make certain adjustments to the calculation of indirect U.S. selling expenses for salaries paid to two employees of Golden Dragon who worked in the United States during the POI because these adjustments are insignificant in relation to the price of the merchandise.¹²

3. The Department revised the reported wall thickness for one control number ("CONNUM").¹³

4. The Department revised the reported electricity consumption to account for indirect consumption of electricity.¹⁴

5. The Department revised the reported indirect labor to account for previously unreported labor hours.¹⁵

6. The Department revised the reported water consumption to reflect the water consumption calculated in Golden Dragon's cost reconciliation.¹⁶

7. The Department revised the reported direct labor and electricity consumption to reflect the correct production quantities at all stages of the production process.¹⁷

8. The Department revised the reported electricity consumption to reflect the correct allocation of electricity to the different inner grooved tubes ("IGT") based on the IGT forming processing stage consumption that corresponds to each type of IGT.¹⁸

9. The Department adjusted the reported electricity and direct labor consumption for a particular CONNUM to reflect the lower electricity and direct labor usage rates for a nine millimeter (mm) IGT product instead of the higher rates for a seven mm product.¹⁹

10. The Department revised the reported consumption of plastic plugs, wood boards, rubber plugs, and paper

pads to reflect the weights measured by the Department during verification.²⁰

11. The Department revised the distances between Golden Dragon and several of its suppliers.²¹

12. The Department revised the distances between Golden Dragon and several seaports, including the nearest seaport.²²

13. The Department revised the gross unit price of eight invoices in which the sales amount recorded in the U.S. sales database was less than the sales amount recorded in the records of the U.S. sales staff.²³

14. The Department revised the reported international freight amount to include a security fee that was not reported in the U.S. sales database.²⁴

15. The Department revised the credit period over which the reported credit expenses are based from the period between the date of sale and the payment date to the period between the date of shipment and the payment date.²⁵

Changes Specific to the Hailiang Group

1. The Department determined that the Hailiang Group has failed to cooperate because it has not acted to the best of its ability to comply with the Department's requests to provide factors of production ("FOP") on a product-group specific basis. Therefore, pursuant to section 776(b) of the Act, the Department has found that, in selecting from among the facts otherwise available ("FA"), an adverse inference is appropriate for the Hailiang Group.²⁶

2. The Department revised the weighted-average per-unit FOP for water to include the FOP for water reported on a cubic meter per kilogram basis.²⁷

⁷ See 19 CFR 351.204(b)(1).

⁸ See Memorandum from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China" (September 24, 2010) ("Issues and Decision Memorandum").

⁹ See Issues and Decision Memorandum at Comment 1; Memorandum to the File from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Surrogate Value Memorandum," (September 24, 2010) ("Final Surrogate Value Memorandum") at 2, Attachment 3.

¹⁰ See Issues and Decision Memorandum at Comment 2; Final Surrogate Value Memorandum at 2, Attachment 4.

¹¹ See Issues and Decision Memorandum at Comment 4; Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Analysis Memorandum for Golden Dragon Precise Copper Tube Group, Inc." (September 24, 2010) ("Golden Dragon's Final Analysis Memorandum") at 1-2, Attachment 1.

¹² See Issues and Decision Memorandum at Comment 8; Golden Dragon's Final Analysis Memorandum at 2, Attachment 3.

¹³ See Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Verification of the Questionnaire Responses of Golden Dragon Precise Copper Tube Group, Inc." (June 15, 2010) ("Golden Dragon's Verification Report") at 3; Golden Dragon's Final Analysis Memorandum at 2.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See Golden Dragon's Verification Report at 3; Golden Dragon's Final Analysis Memorandum at 3.

¹⁷ See Golden Dragon's Verification Report at 2, 29; Golden Dragon's Final Analysis Memorandum at 3.

¹⁸ See Issues and Decision Memorandum at Comment 9; Golden Dragon's Final Analysis Memorandum at 3.

¹⁹ *Id.*

²⁰ See Golden Dragon's Verification Report at 33; Golden Dragon's Final Analysis Memorandum at 3.

²¹ See Golden Dragon's Verification Report at 32; Golden Dragon's Final Analysis Memorandum at 3-4, Attachment 4.

²² *Id.*

²³ See Golden Dragon's Verification Report at 2, 18; Golden Dragon's Final Analysis Memorandum at 4.

²⁴ See Golden Dragon's Verification Report at 2, 22; Golden Dragon's Final Analysis Memorandum at 4.

²⁵ See Golden Dragon's Verification Report at 2, 22-23; Golden Dragon's Final Analysis Memorandum at 4.

²⁶ See Issues and Decision Memorandum at Comment 12; Memorandum from Karine Gziryan, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Analysis Memorandum for the Hailiang Group" (September 24, 2010) ("Hailiang Group's Final Analysis Memorandum") at 2.

²⁷ See Issues and Decision Memorandum at Comment 13; Hailiang Group's Final Analysis Memorandum at 2.

3. The Department revised the weighted-average per-unit FOP for wooden crate.²⁸

4. The Department revised its normal value calculation to include carbon soot, scale-like graphite, hydrogen, and mold oils as direct materials.²⁹

5. The Department revised its normal value calculation to exclude polythene, colorant, and anti-aging master batch.³⁰

6. The Department revised its normal value calculation to include nitrogen, kerosene and charcoal as direct inputs.³¹

7. The Department revised its normal value calculation to include the labor hours reported in the two additional indirect labor fields from the Hailiang Group's post-verification sales database.³²

8. The Department incorporated all changes from the Hailiang Group's minor corrections in the final calculation of the Hailiang Group's antidumping margin.³³

Scope of Investigation

For the purpose of this investigation, the products covered are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter ("OD"), regardless of wall thickness, bore (e.g., smooth, enhanced with inner grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled, bent, wound on spools).

The scope of this investigation covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials ("ASTM") ASTM-B42, ASTM-B68, ASTM-B75, ASTM-

B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-B359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope of this investigation are all sets of covered products, including "line sets" of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase "all sets of covered products" denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

"Refined copper" is defined as: (1) Metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits:

Element	Limiting content percent by weight
Ag—Silver	0.25
As—Arsenic	0.5
Cd—Cadmium	1.3
Cr—Chromium	1.4
Mg—Magnesium	0.8
Pb—Lead	1.5
S—Sulfur	0.7
Sn—Tin	0.8
Te—Tellurium	0.8
Zn—Zinc	1.0
Zr—Zirconium	0.3
Other elements (each) ..	0.3

Excluded from the scope of this investigation are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to this investigation are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Products subject to this investigation may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Scope Comments

The Department has not received comments on the scope of this investigation since the publication of the *Preliminary Determination*.

Verification

As provided in section 782(i) of the Act, the Department verified the information submitted by Golden

Dragon and the Hailiang Group for use in the final determination. The Department used standard verification procedures including examination of relevant accounting and production records and original source documents provided by the respondents.³⁴

Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy ("NME") country.³⁵ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, the Department continues to treat the PRC as an NME country for purposes of this final determination.

Surrogate Country

In the *Preliminary Determination*, the Department stated that it selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to section 773(c)(4) of the Act; and (3) the Department has reliable data from India that it can use to value the FOPs.³⁶ The Department received no comments on this issue after the *Preliminary Determination* and the Department has not made changes to its findings with respect to the selection of a surrogate country for the final determination.

Separate Rates

In proceedings involving NME countries, the Department holds a rebuttable presumption that all companies within the country are subject to government control and, thus,

³⁴ See Memorandum from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to the File, "Verification of the Sales and Factors Responses of Zhejiang Hailiang Co., Ltd.; Shanghai Hailiang Co., Ltd.; and Hong Kong Hailiang Co., Ltd. in the Antidumping Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China" (June 18, 2010); Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Verification of the Questionnaire Responses of Golden Dragon Precise Copper Tube Group, Inc." (June 15, 2010).

³⁵ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

³⁶ See *Preliminary Determination*, 75 FR at 26719.

²⁸ See Issues and Decision Memorandum at Comment 14; Hailiang Group's Final Analysis Memorandum at 3.

²⁹ See Issues and Decision Memorandum at Comment 15; Hailiang Group's Final Analysis Memorandum at 3.

³⁰ *Id.*

³¹ See Issues and Decision Memorandum at Comment 15; Hailiang Group's Final Analysis Memorandum at 4.

³² See Issues and Decision Memorandum at Comment 17; Hailiang Group's Final Analysis Memorandum at 4.

³³ See Issues and Decision Memorandum at Comment 18; Hailiang Group's Final Analysis Memorandum at 4.

should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.³⁷

In the *Preliminary Determination*, the Department found that the following companies demonstrated eligibility for separate-rate status: Luvata Tube (Zhongshan) Ltd.; Ningbo Jintian Copper Tube Co. Ltd.; Zhejiang Naile Copper Co., Ltd.; Zhejiang Jiahe Pipes Inc.; and Luvata Alltop (Zhongshan) Ltd. (collectively, the "Separate Rate Applicants").³⁸ Since the publication of the *Preliminary Determination*, no party has commented on the eligibility of the Separate Rate Applicants for separate-rate status. For the final determination, the Department continues to find that the evidence placed on the record of this investigation by the Separate Rate Applicants demonstrates both *de jure* and *de facto* absence of government control with respect to each company's respective exports of the merchandise under investigation. Thus, the Department continues to find that the Separate Rate Applicants are eligible for separate-rate status.

The separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding zero and *de minimis* margins or margins based entirely on adverse facts available ("AFA").³⁹ In this investigation both mandatory respondents, Golden Dragon and the Hailiang Group, have estimated weighted-average dumping margins which are above *de minimis* and which are not based on total AFA. Therefore, because there are only two relevant weighted-average dumping margins for this final determination and because using a weighted average risks disclosure of business proprietary information, the separate rate is a simple-average of these two values, which is 36.05 percent.⁴⁰

³⁷ See *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

³⁸ See *Preliminary Determination*, 75 FR at 26720.

³⁹ See section 735(c)(5)(A) of the Act.

⁴⁰ See *Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 47587, 47591 (August 14, 2008).

Use of FA and AFA

Section 776(a) of the Act provides that the Department shall apply FA if (1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying FA when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Hailiang Group

In the *Preliminary Determination*, the Department determined, pursuant to section 776(a)(1) and (2)(B) of the Act, that it was appropriate to base the Hailiang Group's preliminary dumping margin, in part, on FA because (1) the Hailiang Group's own information on the record indicates that it had the ability to report its FOPs on a product-group specific basis,⁴¹ and (2) the Hailiang Group continued to report FOP values that are identical for all CONNUMs, despite the Department's multiple requests to provide this data on a more specific basis.⁴² On April 29, 2010, the Department issued a

⁴¹ See Letter from the Hailiang Group to the Secretary of Commerce, "Certain Seamless Refined Copper Pipe & Tube from the People's Republic of China: Supplemental Section D Questionnaire Response of Hailiang Group" (March 19, 2010) at Exhibit 6; Letter from the Hailiang Group to the Secretary of Commerce, "Certain Seamless Refined Copper Pipe & Tube from the People's Republic of China: Supplemental Section D Questionnaire Response of Hailiang Group" (April 12, 2010) at Exhibit 12.

⁴² See Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to the Hailiang Group, "Sections C&D Third Supplemental Questionnaire" (April 28, 2010) at 2-3; Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to the Hailiang Group, "Sections C&D Supplemental Questionnaire" (February 26, 2010) at 8-9; Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to Zhejiang Hailiang, "Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Request for Information" (December 4, 2009) at D-2.

questionnaire that requested the Hailiang Group to report product-specific FOPs for different production stages and, if the Hailiang Group believed that this were not possible, to comment on the product-group specific processing yields that are on the record of this investigation. However, the Hailiang Group neither reported product-specific FOPs for different production stages nor explained why these product-group specific processing yields are incorrect and cannot be applied in the calculation of product-group specific FOPs.⁴³ The Hailiang Group had multiple opportunities both before and after the *Preliminary Determination* to explain why the cumulative yields that were calculated by Petitioners and used in the *Preliminary Determination* were flawed and could not be used in the final determination. The Hailiang Group, however, did not provide such an explanation.

Because the Hailiang Group has continued to report FOP values that are identical for all CONNUMs, despite the Department's multiple requests to provide this data on a more specific basis, all the information necessary for the Department to calculate an accurate dumping margin for the Hailiang Group is not on the record and available for use in the final determination. Since the Hailiang Group did not provide the requested FOPs on a product-group specific basis, this necessary information was not available on the record and, therefore, the Department has determined, pursuant to section 776(a)(1) and (2)(B) of the Act, that it continues to be appropriate to base the Hailiang Group's dumping margin, in part, on FA. Furthermore, the Department determines that the Hailiang Group has failed to cooperate because the Hailiang Group has not acted to the best of its ability to comply with the Department's requests both before and after the *Preliminary Determination* to provide FOPs on a product-group specific basis or to explain why the cumulative yields calculated by Petitioners and used in the *Preliminary Determination* could not be used in the final determination. Therefore, pursuant to section 776(b) of the Act, the Department finds that, in

⁴³ See Letter from the Hailiang Group to the Secretary of Commerce, "Certain Seamless Refined Copper Pipe and Tube from the People's Republic of China: Third Supplemental Section D Questionnaire & Part 1 of Post-Preliminary FOP Response of Hailiang Group" (May 11, 2010); Letter from the Hailiang Group to the Secretary of Commerce, "Certain Seamless Refined Copper Pipe and Tube from China: Part 2 of Post-Preliminary FOP Response of the Hailiang Group" (May 14, 2010).

selecting from among FA, an adverse inference is appropriate for the Hailiang Group.⁴⁴

PRC-Wide Entity

In the *Preliminary Determination*, the Department determined that certain PRC exporters/producers did not respond to the Department's requests for information.⁴⁵ Thus, the Department treated these PRC exporters/producers as part of the PRC-wide entity and found that the PRC-wide entity did not respond to our requests for information.⁴⁶ No additional information was placed on the record with respect to any of these companies after the *Preliminary Determination*. Since the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find it appropriate to base the PRC-wide rate on FA.

The Department determines that, because the PRC-wide entity did not respond to our requests for information, the PRC-wide entity has failed to cooperate to the best of its ability. Therefore, pursuant to section 776(b) of the Act, the Department finds that, in selecting from among the FA, an adverse inference is appropriate for the PRC-wide entity.

Because the Department begins with the presumption that all companies

within an NME country are subject to government control, and because only Separate Rate Applicants have overcome that presumption, the Department is applying a single antidumping rate (*i.e.*, the PRC-wide entity rate) to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate.⁴⁷ The PRC-wide entity rate applies to all entries of subject merchandise except for entries from Golden Dragon, the Hailiang Group, and the Separate Rate Applicants.

Selection of the AFA Rate for the PRC-Wide Entity

In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."⁴⁸ Further, it is the Department's practice to select a rate that ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."⁴⁹ It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation.⁵⁰ In the instant

investigation, as AFA, the Department has assigned to the PRC-wide entity the highest rate on the record of this proceeding, which is the 60.85 percent weighted-average margin calculated for the Hailiang Group.⁵¹ The Department determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA.

The dumping margin for the PRC-wide entity applies to all entries of the merchandise under investigation except for entries of merchandise under investigation from the exporter/manufacturer combinations listed in the chart in the "Final Determination" section below.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation.⁵² This practice is described in *Policy Bulletin 05.1*, available at <http://www.trade.gov/ia>.

Final Determination

The Department determines that the following dumping margins exist for the period January 1, 2009 through June 30, 2009:

Exporter	Producer	Weighted-average percent margin
Golden Dragon Precise Copper Tube Group, Inc	Golden Dragon Precise Copper Tube Group, Inc	11.25
Zhejiang Hailiang Co., Ltd.; Hong Kong Hailiang Metal Trading ... Limited; Shanghai Hailiang Copper Co., Ltd	Zhejiang Hailiang Co., Ltd.; Shanghai Hailiang Copper Co., Ltd	60.85
Zhejiang Naile Copper Co., Ltd	Zhejiang Naile Copper Co., Ltd	36.05
Zhejiang Jiahe Pipes Inc	Zhejiang Jiahe Pipes Inc	36.05
Luvata Tube (Zhongshan) Ltd	Luvata Tube (Zhongshan) Ltd	36.05
Luvata Tube (Zhongshan) Ltd	Luvata Alltop (Zhongshan) Ltd	36.05
Luvata Alltop (Zhongshan) Ltd	Luvata Alltop (Zhongshan) Ltd	36.05
Ningbo Jintian Copper Tube Co. Ltd	Ningbo Jintian Copper Tube Co. Ltd	36.05
PRC-Wide Entity	PRC-Wide Entity	60.85

Disclosure

The Department will disclose the calculations performed within five days of the date of publication of this notice

⁴⁴ See Issues and Decision Memorandum at Comment 12; Hailiang Group's Final Analysis Memorandum at 6.

⁴⁵ See *Preliminary Determination*, 75 FR at 26722.

⁴⁶ *Id.*

⁴⁷ See, e.g., *Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000).

⁴⁸ See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access*

to parties in this proceeding in accordance with 19 CFR 351.224(b).

Memory Semiconductors From Taiwan, 63 FR 8909, 8932 (February 23, 1998).

⁴⁹ See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005) (quoting the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994)).

⁵⁰ See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon*

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection ("CBP") to continue to

Quality Steel Products From The People's Republic of China, 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum at "Facts Available."

⁵¹ See Hailiang Group's Final Analysis Memorandum at 1, Attachment III.

⁵² See *Seamless Refined Copper Pipe and Tube From the People's Republic of China and Mexico: Initiation of Antidumping Duty Investigations*, 74 FR 55194, 55199 (October 27, 2009) ("*Initiation Notice*").

suspend liquidation of all entries of copper pipe and tube from the PRC, as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after May 12, 2010, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, the Department has notified the International Trade Commission ("ITC") of the final affirmative determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 24, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix I

Issues for Final Determination

- Comment 1: Whether the Department should revise its labor rate calculation.
 Comment 2: Whether the Department should revise its calculation of the surrogate financial ratios.
 Comment 3: Whether the Department should issue cash deposit instructions that contain *ad valorem* rates or specific rates.

Issues Specific to Golden Dragon Precise Copper Tube Group, Inc.

- Comment 4: Whether the Department should treat copper cathode purchases by Golden Dragon from a certain supplier in the Peoples's Republic of China as non-market economy purchases.
 Comment 5: Whether the Department should recalculate Golden Dragon's copper cathode cost based on the bonded and general trade copper cathode purchases during the period of investigation.
 Comment 6: Whether the Department should revise the surrogate value for plywood batten consumed by Golden Dragon.
 Comment 7: Whether the Department should consider solvent consumed by Golden Dragon to be a direct material input.
 Comment 8: Whether the Department should include salaries paid to two employees of Golden Dragon who worked in the United States during the period of investigation as indirect U.S. selling expenses.
 Comment 9: Whether the Department should adjust the factor of production for electricity for 7 mm and 9 mm inner-grooved tube products.
 Comment 10: Whether the Department should make certain minor corrections.

Issues Specific to Zhejiang Hailiang Co., Ltd., Shanghai Hailiang Copper Co., Ltd., and Hong Kong Hailiang Metal Trading Limited

- Comment 11: Whether to use facts available with regard to the Hailiang Group's line set sales.
 Comment 12: Whether to use of facts available with regard to the Hailiang Group's factors of production.
 Comment 13: Whether to correct the water usage factor of production used in the *Preliminary Determination*.
 Comment 14: Whether the Department should accept the post-preliminary correction of the consumption of Shanghai Hailiang's wooden crates.
 Comment 15: Whether to continue considering certain raw materials as factors of production or exclude them from the calculation of the Hailiang Group's normal value.
 Comment 16: Whether to continue using the actual weight reported by the Hailiang Group in its United States sales database.
 Comment 17: Whether to include two additional categories of indirect labor as labor inputs.

Comment 18: Whether the Department should make certain minor corrections.

[FR Doc. 2010-24720 Filed 9-30-10; 8:45 am]

BILLING CODE 3510-DS-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: Seamless Refined Copper Pipe and Tube from China and Mexico
Inv. Nos.: 731-TA-1174 and 1175 (Final)
Date and Time: September 23, 2010 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

CONGRESSIONAL WITNESS:

The Honorable Lincoln Davis, U.S. Representative, 4th District, Tennessee

EMBASSY WITNESS:

**Embassy of Mexico
Washington, D.C.**

Hugo Perezcano, Head of the International Trade Practices Unit of the Secretary of Economy of Mexico

OPENING REMARKS:

Petitioners (**Jack A. Levy**, DLA Piper)

Respondents (**Kevin M. O'Brien**, Baker & McKenzie LLP and **John M. Ryan**, Weil, Gotshal & Manges LLP)

In Support of the Imposition of Antidumping Duty Orders:

DLA Piper
Washington, D.C.
on behalf of

Cerro Flow Products, LLC
Kobe Wieland Copper Products, LLC
Mueller Copper Tube Products, Inc.
Mueller Copper Tube Company, Inc.

John Hansen, President, Manufacturing Operations, Mueller Industries, Inc.
Bart Arndt, Vice President/Industrial Unit Manager, Cerro Flow Products, LLC
Mike Flowers, Former Employee of Wolverine Tube, Inc.
Brian Stemler, President, USW, Local 4294
Dr. Richard Boyce, President, Econometrica International, Inc.

Jack A. Levy)
– OF COUNSEL
Martin Schaefermeier)

**In Opposition to the Imposition of
Antidumping Duty Orders:**

Baker & McKenzie LLP
Washington, D.C.
on behalf of

Golden Dragon Precise Copper Tube Croup, Inc.
GD Affiliates S. de R.L. de C.V.
GD Copper (U.S.A.), Inc.

Keith Weil, Executive Vice President, GD Copper (U.S.A.), Inc.
Thomas Rogers, Economic Consultant, Capital Trade, Inc.

Kevin M. O'Brien) – OF COUNSEL

Weil, Gotshal & Manges LLP
Washington, D.C.
on behalf of

IUSA, S.A. de C.V. (“IUSA”)
Nacional de Cobre, S.A. de C.V. (“NACOBRE”)
Cambridge-Lee Industries LLC
Copper and Brass International

Juan José Ochoa, Chief Operating Officer, IUSA
Ed Kerins, Chief Executive Officer, Cambridge-Lee Industries
Steven Kelly, President, Copper and Brass International

John M. Ryan)
Stuart M. Rosen) – OF COUNSEL
Joseph M. Johnson)

**In Opposition to the Imposition of
Antidumping Duty Orders (continued):**

Drinker Biddle & Reath LLP
Washington, D.C.
on behalf of

Johnson Controls, Inc.
Marubeni America Corporation

Scott Smith, C.P.M., Purchasing Director, Building Efficiency, Johnson Controls, Inc.
Duane E. Webber, Vice President, Global Purchasing, Building Efficiency, Johnson
Controls, Inc.
Jean-Philippe Krahmer, Sales Manager, Copper Tubing, Marubeni America Corporation

William Silverman)
) – OF COUNSEL
Douglas Heffner)

McDermott Will & Emery LLP
Washington, D.C.
on behalf of

Goodman Global, Inc. (“Goodman”)

Michael J. Knights, Vice President, Procurement, Goodman
William L. Topper, Senior Vice President, Operations, Goodman

Raymond Paretzky) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

Petitioners (**Jack A. Levy**, DLA Piper)
Respondents (**Kevin M. O’Brien**, Baker & McKenzie and **John M. Ryan**, Weil, Gotshal & Manges LLP)

APPENDIX C
SUMMARY DATA

Table C-1
SRC pipe & tube: Summary data concerning the U.S. market, 2007-09, January-June 2009, and January-June 2010

Item	(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)									
	Reported data					Period changes				
	2007	2008	2009	January-June 2009		2007-09	2007-08	2008-09	Jan.-June 2009-10	
U.S. consumption quantity:										
Amount	992,539	858,926	698,018	380,978	341,491	-29.7	-13.5	-18.7	-10.4	
Producers' share (1)	75.8	71.3	73.5	72.8	77.5	-2.3	-4.6	2.2	4.7	
Importers' share (1):										
China	9.1	12.9	13.1	13.0	8.4	4.0	3.8	0.2	-4.6	
Mexico	7.6	8.3	6.9	8.2	5.0	-0.7	0.7	-1.4	-3.2	
Subtotal	16.7	21.2	20.0	21.2	13.4	3.3	4.5	-1.2	-7.7	
Other sources	7.5	7.5	6.5	6.0	9.0	-1.0	0.0	-1.0	3.0	
Total imports	24.2	28.7	26.5	27.2	22.5	2.3	4.6	-2.2	-4.7	
U.S. consumption value:										
Amount	3,959,314	3,574,571	2,110,170	1,016,023	1,366,524	-46.7	-9.7	-41.0	34.5	
Producers' share (1)	76.6	72.1	76.0	75.6	78.4	-0.7	-4.5	3.8	2.7	
Importers' share (1):										
China	8.8	12.5	11.6	10.9	8.0	2.8	3.7	-0.9	-2.9	
Mexico	7.2	7.9	6.2	7.8	4.7	-1.0	0.7	-1.7	-3.1	
Subtotal	16.0	20.4	17.8	18.7	12.7	1.8	4.4	-2.6	-6.0	
Other sources	7.4	7.5	6.3	5.6	8.9	-1.1	0.1	-1.2	3.3	
Total imports	23.4	27.9	24.0	24.4	21.6	0.7	4.5	-3.8	-2.7	
U.S. imports from (2):										
China:										
Quantity	90,624	111,126	91,768	49,388	28,719	1.3	22.6	-17.4	-41.8	
Value	348,772	446,282	244,101	110,981	109,860	-30.0	28.0	-45.3	-1.0	
Unit value	\$3.85	\$4.02	\$2.66	\$2.25	\$3.83	-30.9	4.4	-33.8	70.2	
Ending inventory quantity	***	***	***	***	***	***	***	***	***	
Mexico:										
Quantity	75,199	71,327	48,014	31,340	17,183	-36.2	-5.1	-32.7	-45.2	
Value	284,287	281,957	131,261	79,376	63,732	-53.8	-0.8	-53.4	-19.7	
Unit value	\$3.78	\$3.95	\$2.73	\$2.53	\$3.71	-27.7	4.6	-30.8	46.4	
Ending inventory quantity	***	***	***	***	***	***	***	***	***	
Subtotal:										
Quantity	165,823	182,453	139,782	80,728	45,902	-15.7	10.0	-23.4	-43.1	
Value	633,059	728,238	375,362	190,357	173,592	-40.7	15.0	-48.5	-8.8	
Unit value	\$3.82	\$3.99	\$2.69	\$2.36	\$3.78	-29.7	4.5	-32.7	60.4	
Ending inventory quantity	***	***	***	***	***	***	***	***	***	
All other sources:										
Quantity	74,226	64,441	45,426	22,961	30,847	-38.8	-13.2	-29.5	34.3	
Value	292,345	268,218	131,960	57,314	122,111	-54.9	-8.3	-50.8	113.1	
Unit value	\$3.94	\$4.16	\$2.90	\$2.50	\$3.96	-26.2	5.7	-30.2	58.6	
Ending inventory quantity	***	***	***	***	***	***	***	***	***	
All sources:										
Quantity	240,049	246,894	185,209	103,689	76,750	-22.8	2.9	-25.0	-26.0	
Value	925,404	996,456	507,321	247,671	295,703	-45.2	7.7	-49.1	19.4	
Unit value	\$3.86	\$4.04	\$2.74	\$2.39	\$3.85	-28.9	4.7	-32.1	61.3	
Ending inventory quantity	***	***	***	***	***	***	***	***	***	
U.S. producers':										
Average capacity quantity	1,223,928	1,120,991	1,122,794	563,535	545,709	-8.3	-8.4	0.2	-3.2	
Production quantity	781,123	640,036	531,562	284,755	296,071	-31.9	-18.1	-16.9	4.0	
Capacity utilization (1)	63.8	57.1	47.3	50.5	54.3	-16.5	-6.7	-9.8	3.7	
U.S. shipments:										
Quantity	752,491	612,032	512,809	277,289	264,741	-31.9	-18.7	-16.2	-4.5	
Value	3,033,910	2,578,115	1,602,849	768,352	1,070,821	-47.2	-15.0	-37.8	39.4	
Unit value	\$4.03	\$4.21	\$3.13	\$2.77	\$4.04	-22.5	4.5	-25.8	46.0	
Export shipments:										
Quantity	33,253	33,243	30,971	14,578	21,541	-6.9	-0.0	-6.8	47.8	
Value	136,379	142,244	100,139	40,457	90,235	-26.6	4.3	-29.6	123.0	
Unit value	\$4.10	\$4.28	\$3.23	\$2.78	\$4.19	-21.2	4.3	-24.4	50.9	
Ending inventory quantity	52,936	48,747	38,053	41,930	35,642	-28.1	-7.9	-21.9	-15.0	
Inventories/total shipments (1)	6.7	7.6	7.0	7.2	6.2	0.3	0.8	-0.6	-1.0	
Production workers	3,644	3,303	2,902	2,962	2,668	-20.4	-9.4	-12.1	-9.9	
Hours worked (1,000s)	7,791	6,980	5,873	3,056	2,809	-24.6	-10.4	-15.9	-8.1	
Wages paid (\$1,000s)	136,285	124,976	104,257	54,720	50,468	-23.5	-8.3	-16.6	-7.8	
Hourly wages	\$17.49	\$17.90	\$17.75	\$17.91	\$17.97	1.5	2.4	-0.9	0.3	
Productivity (pounds per hour)	100.1	91.6	90.5	93.1	105.3	-9.7	-8.5	-1.2	13.1	
Unit labor costs	\$0.17	\$0.20	\$0.20	\$0.19	\$0.17	12.3	11.9	0.4	-11.3	
Net sales:										
Quantity	772,482	649,879	526,474	277,322	286,115	-31.8	-15.9	-19.0	3.2	
Value	3,151,317	2,761,903	1,630,144	748,334	1,161,741	-48.3	-12.4	-41.0	55.2	
Unit value	\$4.08	\$4.25	\$3.10	\$2.70	\$4.06	-24.1	4.2	-27.1	50.5	
Cost of goods sold (COGS)	2,857,802	2,526,052	1,523,536	696,297	1,094,715	-46.7	-11.6	-39.7	57.2	
Gross profit or (loss)	293,515	235,851	106,608	52,037	67,026	-63.7	-19.6	-54.8	28.8	
SG&A expenses	73,637	68,408	61,715	30,144	32,796	-16.2	-7.1	-9.8	8.8	
Operating income or (loss)	219,878	167,443	44,893	21,893	34,230	-79.6	-23.8	-73.2	56.4	
Capital expenditures	41,162	45,241	34,090	17,231	6,024	-17.2	9.9	-24.6	-65.0	
Unit COGS	\$3.70	\$3.89	\$2.89	\$2.51	\$3.83	-21.8	5.1	-25.5	52.4	
Unit SG&A expenses	\$0.10	\$0.11	\$0.12	\$0.11	\$0.11	23.0	10.4	11.4	5.5	
Unit operating income or (loss)	\$0.28	\$0.26	\$0.09	\$0.08	\$0.12	-70.0	-9.5	-66.9	51.5	
COGS/sales (1)	90.7	91.5	93.5	93.0	94.2	2.8	0.8	2.0	1.2	
Operating income or (loss)/ sales (1)	7.0	6.1	2.8	2.9	2.9	-4.2	-0.9	-3.3	0.0	

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Import data are from official Commerce statistics.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table C-2
SRC pipe & tube: U.S. Import data, 2007-09, January-June 2009, and January-June 2010

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2007	2008	2009	January-June		2007-09	2007-08	2008-09	Jan.-June 2009-10
				2009	2010				
U.S. shipments imports from (1):									
China:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Mexico:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	147,586	163,469	127,979	70,684	50,141	-13.3	10.8	-21.7	-29.1
Value	572,860	681,701	373,098	177,795	194,784	-34.9	19.0	-45.3	9.6
Unit value	\$3.88	\$4.17	\$2.92	\$2.52	\$3.88	-24.9	7.4	-30.1	54.4
All other sources:									
Quantity	74,226	64,441	45,426	22,961	30,847	-38.8	-13.2	-29.5	34.3
Value	292,345	268,218	131,960	57,314	122,111	-54.9	-8.3	-50.8	113.1
Unit value	\$3.94	\$4.16	\$2.90	\$2.50	\$3.96	-26.2	5.7	-30.2	58.6
All sources:									
Quantity	221,812	227,910	173,405	93,645	80,988	-21.8	2.7	-23.9	-13.5
Value	865,205	949,919	505,058	235,109	316,895	-41.6	9.8	-46.8	34.8
Unit value	\$3.90	\$4.17	\$2.91	\$2.51	\$3.91	-25.3	6.9	-30.1	55.9

(1) U.S. shipments of imports are from questionnaire data, and data for all other sources are from official Commerce statistics.

Table C-3
SRC pipe & tube: Summary data concerning the U.S. market, (excluding Wolverine) 2007-09,
January-June 2009, and January-June 2010

* * * * *

APPENDIX D
TARIFF TREATMENT

Harmonized Tariff Schedule of the United States (2010) (Rev. 2)

Annotated for Statistical Reporting Purposes

XV
74-5

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
7404.00		Copper waste and scrap:				
7404.00.30		Spent anodes; waste and scrap with a copper content of less than 94 percent by weight		Free		6%
	20	Of refined copper	kg			
		Of copper alloys:				
	45	Of copper-zinc base alloys (brass):				
	55	Containing more than 0.3 percent of lead	kg			
	65	Other	kg			
	90	Of copper-tin base alloys (bronze)	kg			
7404.00.60		Other		Free		6%
	20	Of refined copper	kg			
		Of copper alloys:				
	45	Of copper-zinc base alloys (brass):				
	55	Containing more than 0.3 percent of lead	kg			
	65	Other	kg			
	90	Of copper-tin base alloys (bronze)	kg			
		Other	kg			
7405.00		Master alloys of copper:				
7405.00.10	00	Containing by weight 5 percent or more but not more than 15 percent of phosphorus	kg	Free		12%
7405.00.60		Other		Free		28%
	30	Beryllium copper master alloy	kg			
	50	Other	kg			
7406		Copper powders and flakes:				
7406.10.00	00	Powders of non-lamellar structure	kg	Free		49%
7406.20.00	00	Powders of lamellar structure; flakes	kg	Free		12%
7407		Copper bars, rods and profiles:				
7407.10		Of refined copper:				
		Profiles:				
7407.10.15	00	Hollow profiles	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	48%
7407.10.30	00	Other	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	48%
7407.10.50		Bars and rods		1%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	7%
	10	Having a rectangular cross section	kg			
	50	Other	kg			
		Of copper alloys:				
7407.21		Of copper-zinc base alloys (brass):				
		Profiles:				
7407.21.15	00	Hollow profiles	kg	2.2%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	17%
7407.21.30	00	Other	kg	2.2%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	17%
		Bars and rods:				
7407.21.50	00	Low fuming brazing rods	kg	2.2%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	9%
		Other:				
7407.21.70	00	Having a rectangular cross section	kg	1.9%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	9%
7407.21.90	00	Other	kg	2.2%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM, P,PE,SG)	9%

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Annotated for Statistical Reporting Purposes

XV
74-10

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
7410		Copper foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.15 mm:				
7410.11.00	00	Not backed: Of refined copper	kg	1%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	6.5%
7410.12.00		Of copper alloys		1%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	6.5%
	30	Of copper-zinc base alloys (brass)	kg			
	60	Other	kg			
7410.21		Backed:				
7410.21.30		Of refined copper: Copper clad laminates		3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	80%
	20	Having a base wholly of plastics impregnated glass: Having copper on one side only	m ²			
	40	Having copper on both sides	m ²			
	60	Other	m ²			
7410.21.60	00	Other	kg	1.5%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	6%
7410.22.00	00	Of copper alloys	kg	1.5%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	6%
7411		Copper tubes and pipes:				
7411.10		Of refined copper:				
7411.10.10		Seamless		1.5%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	13%
	30	Having an outside diameter of 6 mm or more but not exceeding 16 mm, in coils on spools	kg			
	90	Other	kg			
7411.10.50	00	Other	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	47%
		Of copper alloys:				
7411.21		Of copper-zinc base alloys (brass):				
7411.21.10	00	Seamless	kg	1.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	10%
7411.21.50	00	Other	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	49%
7411.22.00	00	Of copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel-silver)	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	47%
7411.29		Other:				
7411.29.10	00	Seamless	kg	1.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	10%
7411.29.50	00	Other	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	49%

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Annotated for Statistical Reporting Purposes

XV
74-14

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
7419		Other articles of copper:				
7419.10.00	00	Chain and parts thereof	kg	3%	Free (A,B,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	45%
7419.91.00		Other:				
		Cast, molded, stamped or forged, but not further worked		Free		46%
	10	Brass plumbing goods, not elsewhere specified or included				
	50	Other	kg			
7419.99		Other:				
		Cloth (including endless bands), grill and netting, of copper wire; expanded metal of copper:				
		Cloth:				
7419.99.03	00	Fourdrinier wires, seamed or not seamed, suitable for use in paper-making machines, with 94 or more wires to the lineal centimeter	m ²	Free		75%
		Other	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	43%
7419.99.06		Fourdrinier wires, seamed or not seamed, suitable for use in paper-making machines, with fewer than 94 or more wires to the lineal centimeter	m ²			
	60	Other	kg			
	80	Other	m ² kg			
7419.99.09	00	Other	kg	3%	Free (A,AU,B,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	43%
7419.99.15	00	Containers of a kind normally carried on the person, in the pocket or in the handbag	doz.	3%	Free (AU,BH,CA,D,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	110%
7419.99.16	00	Copper springs	kg	3%	Free (A,AU,B,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	45%
7419.99.30	00	Other: Coated or plated with precious metal	kg	3%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	65%
7419.99.50		Other		Free		46%
	10	Brass plumbing goods not elsewhere specified or included	kg			
	50	Other	kg			

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Annotated for Statistical Reporting Purposes

XVI
84-17

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
8414		Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; parts thereof:				
8414.10.00	00	Vacuum pumps	No.	2.5%	Free (A,AU,B,BH, C,CA,CL,E,IL,J, JO,MA,MX,OM,P, PE,SG)	35%
8414.20.00	00	Hand- or foot-operated air pumps	No.	3.7%	Free (A,AU,B,BH, C,CA,CL,E,IL,J, JO,MA,MX,OM,P, PE,SG)	35%
8414.30		Compressors of a kind used in refrigerating equipment (including air conditioning):				
8414.30.40	00	Not exceeding 1/4 horsepower	No.	Free		35%
8414.30.80		Other		Free		35%
		Screw type:				
	10	Not exceeding 200 horsepower	No.			
	20	Exceeding 200 horsepower	No.			
		Other:				
		For all refrigerants except ammonia:				
	30	For motor vehicles	No.			
		Other:				
	50	Exceeding 1/4 horsepower but not exceeding 1 horsepower	No.			
	60	Exceeding 1 horsepower but not exceeding 3 horsepower	No.			
	70	Exceeding 3 horsepower but not exceeding 10 horsepower	No.			
	80	Exceeding 10 horsepower	No.			
	90	For ammonia	No.			
8414.40.00	00	Air compressors mounted on a wheeled chassis for towing	No.	2.7%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	35%

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Annotated for Statistical Reporting Purposes

XVI
84-21

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
8415 (con.)		Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated; parts thereof (con.):				
8415.81.01		Other, except parts: Incorporating a refrigerating unit and a valve for reversal of the cooling/heat cycle (reversible heat pumps)		1%	Free (A,AU,B,BH,C,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	35%
	10	Self-contained: Not exceeding 17.58 kW per hour	No.			
	20	Exceeding 17.58 kW per hour	No.			
	30	Other	No.			
8415.82.01		Other, incorporating a refrigerating unit		2.2%	Free (A,AU,B,BH,C,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	35%
	05	Self-contained machines and remote condenser type air conditioners other than year-round units: Not exceeding 17.58 kW per hour	No.			
	10	Exceeding 17.58 kW per hour	No.			
	15	Year-round units (heating and cooling): Not exceeding 17.58 kW per hour	No.			
	20	Exceeding 17.58 kW per hour	No.			
	30	Room or central station air conditioning units for use with water chillers: Room fan coil units	No.			
	35	Central station air handlers	No.			
	40	Other	No.			
	55	Dehumidifiers: With a rated water removal capacity of less than 35 liters over a 24 hour period	No.			
	60	Other	No.			
	70	Other air conditioning machines incorporating a refrigerating unit	No.			
8415.83.00		Not incorporating a refrigerating unit		1.4%	Free (A,AU,B,BH,C,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	35%
	50	Heat exchangers including condensing units: Condensing units: Not exceeding 17.58 kW per hour	No.			
	60	Exceeding 17.58 kW per hour	No.			
	70	Other	No.			
	90	Other air conditioning machines not incorporating a refrigerating unit	No.			

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Annotated for Statistical Reporting Purposes

XVI
84-22

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
8415 (con.)		Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated; parts thereof (con.):				
8415.90		Parts:				
8415.90.40	00	Chassis, chassis bases and outer cabinets	No.	1.4%	Free (A,AU,B,BH, C,CA,CL,E,IL,J, JO,MA,MX,OM,P, PE,SG)	35%
8415.90.80		Other		1.4%	Free (A,AU,B,BH, C,CA,CL,E,IL,J, JO,MA,MX,OM,P, PE,SG)	35%
	25	Air conditioning evaporator coils	No.			
	45	Other:				
	65	Of automotive air conditioners	X			
	85	Of heat pumps	X			
		Other	X			
8416		Furnace burners for liquid fuel, for pulverized solid fuel or for gas; mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances; parts thereof:				
8416.10.00	00	Furnace burners for liquid fuel	No.	Free		27.5%
8416.20.00		Other furnace burners, including combination burners		Free		27.5%
	40	Gas burners	No.			
	80	Other	No.			
8416.30.00	00	Mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances	X	Free		27.5%
8416.90.00	00	Parts	X	Free		27.5%
8417		Industrial or laboratory furnaces and ovens, including incinerators, nonelectric, and parts thereof:				
8417.10.00	00	Furnaces and ovens for the roasting, melting or other heat treatment of ores, pyrites or of metals	No.	2.9%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	45%
8417.20.00	00	Bakery ovens, including biscuit ovens	No.	3.5%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	45%
8417.80.00	00	Other, except parts	No.	3.9%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	45%
8417.90.00	00	Parts	X	3.9%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	45%

APPENDIX E

**U.S. PRODUCTION AND IMPORT DATA REGARDING INDUSTRIAL AND
PLUMBING SRC PIPE AND TUBE**

Table E-1

SRC pipe & tube: Summary data concerning U.S. producers of INDUSTRIAL copper pipe & tube, 2007-09, January-June 2009, and January-June 2010

(Quantity=1,000 pounds, value=1,000 dollars, unit values and unit labor costs are per pound)

Item	Reported data				
	2007	2008	2009	January-June	
				2009	2010
U.S. producers ¹ :					
Average capacity quantity	816,140	813,541	794,101	399,538	400,038
Production quantity	228,014	201,560	165,705	87,660	104,232
Capacity utilization (percent)	27.9	24.8	20.9	21.9	26.1
U.S. shipments:					
Quantity	216,867	191,809	158,563	85,832	96,438
Value	799,084	768,380	469,157	225,636	382,577
Unit value	\$3.68	\$4.01	\$2.96	\$2.63	\$3.97
Export shipments:					
Quantity	12,218	11,253	10,889	5,092	7,378
Value	46,391	46,236	33,221	13,227	30,446
Unit value	\$3.80	\$4.11	\$3.05	\$2.60	\$4.13
Ending inventory quantity	12,594	12,125	8,171	8,993	9,522
Inventories/total shipments	5.5	6.0	4.8	4.9	4.6
Hours worked (1,000s)	1,902	2,069	1,773	917	963
Wages paid (\$1,000s)	30,020	34,905	32,435	15,991	17,404
Hourly wages	\$15.78	\$16.87	\$18.29	\$17.44	\$18.07
Productivity (pounds per hour)	94.1	84.9	81.8	83.7	96.1
Unit labor costs	\$0.17	\$0.20	\$0.22	\$0.21	\$0.19
Net sales Q	179,749	176,224	148,975	79,817	92,045
Net sales V	669,380	710,180	447,204	212,121	368,598
COGS	634,863	684,368	436,370	214,735	354,830
Gross profit or (loss)	34,517	25,812	10,834	(2,614)	13,768
SG&A expenses	12,629	14,766	14,779	8,185	8,686
Operating income or (loss)	21,888	11,046	(3,945)	(10,799)	5,082
Capital expenditures	28,733	34,354	18,516	8,953	2,622

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

Table E-2

SRC pipe & tube: Summary data concerning U.S. producers of PLUMBING copper pipe & tube, 2007-09, January-June 2009, and January-June 2010

(Quantity=1,000 pounds, value=1,000 dollars, unit values and unit labor costs are per pound)

Item	Reported data				
	2007	2008	2009	January-June	
				2009	2010
U.S. producers ¹ :					
Average capacity quantity	1,021,144	976,144	976,144	489,496	489,496
Production quantity	479,401	379,356	316,409	171,180	176,729
Capacity utilization (percent)	46.9	38.9	32.4	35.0	36.1
U.S. shipments:					
Quantity	498,506	389,361	328,658	180,584	169,568
Value	2,069,647	1,644,440	991,728	473,032	676,356
Unit value	\$4.15	\$4.22	\$3.02	\$2.62	\$3.99
Export shipments:					
Quantity	15,595	18,098	13,851	7,593	10,419
Value	64,972	76,254	41,934	19,947	42,127
Unit value	\$4.17	\$4.21	\$3.03	\$2.63	\$4.04
Ending inventory quantity	35,257	34,366	28,672	31,104	25,281
Inventories/total shipments	6.9	8.4	8.4	8.3	7.0
Hours worked (1,000s)	3,533	3,334	2,829	1,445	1,394
Wages paid (\$1,000s)	64,079	59,554	52,976	26,825	26,176
Hourly wages	\$18.14	\$17.86	\$18.73	\$18.56	\$18.78
Productivity (pounds per hour)	124.9	113.8	111.8	118.5	126.8
Unit labor costs	\$0.15	\$0.16	\$0.17	\$0.16	\$0.15
Net sales Q	443,780	383,589	323,724	174,800	167,072
Net sales V	1,853,721	1,641,278	985,786	462,238	672,631
COGS	1,621,053	1,441,726	897,598	410,582	621,517
Gross profit or (loss)	232,668	199,552	88,188	51,656	51,114
SG&A expenses	43,647	42,987	39,139	18,682	20,881
Operating income or (loss)	189,021	156,565	49,049	32,974	30,233
Capital expenditures	10,511	9,417	12,842	7,137	2,045

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

Table E-3
SRC Pipe and Tube: U.S. importers' U.S. imports, U.S. shipments, inventories, and channels of distribution for INDUSTRIAL copper pipe and tube from China and Mexico, 2007-09, January-June 2009, and January-June 2010

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Table E-4
SRC Pipe and Tube: U.S. importers' U.S. imports, U.S. shipments, inventories, and channels of distribution for PLUMBING copper pipe and tube from China and Mexico, 2007-09, January-June 2009, and January-June 2010

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APPENDIX F

**U.S. PRODUCERS' AND IMPORTERS' COMMENTS REGARDING THE
COMPARABILITY OF INDUSTRIAL AND PLUMBING SRC PIPE AND TUBE**

U.S. PRODUCERS COMMENTS REGARDING THE COMPARABILITY OF INDUSTRIAL AND PLUMBING SEAMLESS REFINED COPPER PIPE AND TUBE

The Commission asked U.S. producers whether industrial and plumbing seamless refined copper pipe and tube have the same physical characteristics and end uses and to describe these similarities and/or differences. Their responses are as follows.

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The Commission asked U.S. producers whether industrial and plumbing seamless refined copper pipe and tube are interchangeable and to describe what makes the products interchangeable or not interchangeable. Their responses are as follows.

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The Commission asked U.S. producers whether the manufacturing processes to produce industrial seamless refined copper pipe and tube are similar to those to produce plumbing seamless refined copper pipe and tube and to describe these similarities and/or differences. Their responses are as follows.

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The Commission asked U.S. producers whether industrial and plumbing seamless refined copper pipe and tube share the same channels of distribution. Their responses are as follows.

* * * * *

The Commission asked U.S. producers whether customers perceive industrial and plumbing seamless refined copper pipe and tube to be similar products. Their responses are as follows.

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The Commission asked U.S. producers whether there are generally differences in price between industrial and plumbing seamless refined copper pipe and tube. They were asked which type was generally higher in price. Their responses are as follows.

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U.S. IMPORTERS COMMENTS REGARDING THE COMPARABILITY OF INDUSTRIAL AND PLUMBING SEAMLESS REFINED COPPER PIPE AND TUBE

The Commission asked U.S. importers whether industrial and plumbing seamless refined copper pipe and tube have the same physical characteristics and end uses and to describe these similarities and/or differences. Their responses are as follows.

* * * * *

The Commission asked U.S. importers whether industrial and plumbing seamless refined copper pipe and tube are interchangeable and to describe what makes the products interchangeable or not interchangeable. Their responses are as follows.

* * * * *

The Commission asked U.S. importers whether the manufacturing processes to produce industrial seamless refined copper pipe and tube are similar to those to produce plumbing seamless refined copper pipe and tube and to describe these similarities and/or differences. Their responses are as follows.

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The Commission asked U.S. importers whether industrial and plumbing seamless refined copper pipe and tube share the same channels of distribution. Their responses are as follows.

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The Commission asked U.S. importers whether customers perceive industrial and plumbing seamless refined copper pipe and tube to be similar products. Their responses are as follows.

* * * * *

The Commission asked U.S. importers whether there are generally differences in price between industrial and plumbing seamless refined copper pipe and tube. They were asked which type was generally higher in price. Their responses are as follows.

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APPENDIX G
NONSUBJECT COUNTRY PRICE DATA

One importer (***) reported price data for nonsubject country Canada for products 1-4, and 7 and one importer (***) reported price data for nonsubject country Malaysia for product 5. In comparing nonsubject country pricing data with U.S. producer pricing data, prices for product imported from nonsubject countries were lower than prices for U.S. produced product in 15 instances and higher in 19 instances. In comparing nonsubject country pricing data with subject country pricing data, prices for product imported from nonsubject countries were lower than prices for product imported from subject countries in 28 instances and higher in 29 instances. Specifically, prices for product imported from nonsubject countries were lower than prices for product imported from China in 15 instances and higher in 12 instances; and nonsubject prices were lower than prices for product imported from Mexico in 13 instances and higher in 17 instances. Price and quantity data for Canadian and Malaysia are in tables G-1 to G-2 and in shown in figure G-1 with U.S. and subject sources.

Table G-1
SRC pipe and tube: Weighted-average f.o.b. prices and quantities of nonsubject imported products 1-3¹, by quarters, January 2007-June 2010

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Table G-2
SRC pipe and tube: Weighted-average f.o.b. prices and quantities of nonsubject imported products 4,5, and 7¹, by quarters, January 2007-June 2010

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Figure G-1
SRC pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product, by quarters, January 2007-June 2010

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