**UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation No. 731-TA-859 (Preliminary)
CIRCULAR SEAMLESS STAINLESS STEEL HOLLOW PRODUCTS FROM JAPAN
DETERMINATION AND VIEWS OF THE COMMISSION
(USITC Publication No. 3262, December 1999)

## DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of circular seamless stainless steel hollow products, provided for in subheadings 7304.10.50, 7304.41.30, 7304.41.60, and 7304.49.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

## BACKGROUND

This investigation results from a petition filed on behalf of Altx, Inc., Watervliet, NY; American Extruded Products, PMAC Ltd., Beaver Falls, PA; DMV Stainless USA, Inc., Houston, TX; Salem Tube, Inc., Greenville, PA; Sandvik Steel Co., Scranton, PA; International Extruded Products LLC d/b/a Wyman-Gordon Energy Products - IXP Buffalo, Buffalo, NY; and the United Steelworkers of America, AFL-CIO/CLC, Pittsburgh, PA. on October 26, 1999, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value imports of circular seamless stainless steel hollow products from Japan. Accordingly, effective October 26, 1999, the Commission instituted antidumping duty investigation No. 731-TA-859 (Preliminary). The Commission received an amendment to the petition on November 9, 1999, in which Pennsylvania Extruded Tube Co. joined as a co-petitioner in the case.

Notice of the institution of the Commission's investigation and of a public conference 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 November 4, 1999 (64 FR 60223). The conference was held in Washington, DC, on November 16, 1999,

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

[2] Commissioner Crawford not participating.

and all persons who requested the opportunity were permitted to appear in person or by counsel.

# VIEWS OF THE COMMISSION

Based on the record in this investigation, we find a reasonable indication that an industry in the United States is materially injured by reason of imports of circular seamless stainless steel hollow products from Japan that are allegedly sold in the United States at less than fair value ("LTFV").[1]

## I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. In General

To determine whether there is a reasonable indication that 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."[4] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole 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."[5] In turn, the 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."[6]

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.[7] No single factor is dispositive, and the Commission

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[1] Commissioner Crawford did not participate in this determination.

[2] 19 U.S.C. § 1673b(a); *see also* American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT __, Slip Op. 96-51, at 4-6 (Mar. 11, 1996).

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); *see also* Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10).

[7] *See, e.g.*, NEC Corp. v. Dep't of Commerce, Slip Op. 98-164 at 8 (Ct. Int'l Trade, Dec. 15, 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

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[9] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[10]

### B. Product Description

In its notice of initiation Commerce described the merchandise within the scope of the investigation as follows:

> The scope of this investigation covers seamless stainless hollow products, including pipes, tubes, redraw hollows, and hollow bars, of circular cross section, containing 10.5 percent or more by weight chromium, regardless of production process, outside diameter, wall thickness, length, industry specification (domestic, foreign or proprietary), grade or intended use. Common specifications for the subject seamless stainless steel hollow products include, but are not limited to, ASTM-A-213, ASTM-A-268, ASTM-A-269, ASTM-A-270, ASTM-A-271, ASTM-A-312, ASTM-A-376, ASTM-A-498, ASTM-A-511, ASTM-A-632, ASTM-A-731, ASTM-A-771, ASTM-A-789, ASTM-A-790, ASTM-A-826 and their proprietary or foreign equivalents.
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> The merchandise covered by this petition is found in the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7304.10.50.20, 7304.10.50.50, 7304.10.50.80, 7304.41.30.05, 7304.41.30.15, 7304.41.30.45, 7304.41.60.05, 7304.41.60.15, 7304.41.60.45, 7304.49.00.05, 7304.49.00.15, 7304.49.00.45, 7304.49.00.60. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive. Excluded from the scope of the investigation are finished oil country tubular goods certified to American Petroleum Institute ("API") standard 5CT or 5D. Also excluded are hollow drill bars and rods, classifiable under 7228.80 of the HTSUS.[11]

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[7] (...continued)
the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (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).

[8] *See, e.g.*, S. Rep. No. 96-249, at 90-91 (1979).

[9] Nippon Steel, 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.").

[10] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[11] 64 Fed. Reg. 63285 (Nov. 19, 1999).

### C. Domestic Like Product Issues

Petitioners urge the Commission to find a single domestic like product that includes pipes, tubes, redraw hollows, and hollow bars, regardless of production process (hot- or cold-finished). Respondents contend that the Commission should determine that there are two domestic like products: hot-finished hollow products and cold-finished hollow products. One respondent also alleges that the Commission should determine that extreme-temperature hollow products constitute a separate like product.[12] We determine for the purposes of this preliminary investigation that there is one like product, consisting of hot- and cold-finished hollow products, including pipes, tubes, redraw hollows, and hollow bars.

#### 1. Whether Hot-Finished and Cold-Finished Hollow Products Constitute a Single Domestic Like Product

Hot-finished and cold-finished hollow products have essentially the same chemical composition. The raw materials used to produce stainless steel products include stainless steel scrap, carbon steel scrap, and ferroalloys. The principal ferroalloys used are nickel, chromium, and molybdenum. Producers of stainless steel hollow products use round stainless steel billets purchased from domestic or foreign steel producers.[13] To manufacture a stainless steel hollow product, a billet is heated to hot-forming temperature (2,200 degrees Fahrenheit) and forced through a die and over an internal mandrel, forming a hot-finished hollow section.[14]

Small-diameter or thin-walled products and products requiring particularly close dimensional tolerances or a smooth finish are then cold-finished. The minimum diameter for hot finishing varies among producers due to differences in equipment capabilities, but hollow products with outside diameters smaller than approximately 1.125 inches can be produced only by cold finishing.[15] Cold-finished hollow products are produced in outside diameters of up to 24 inches.[16]

Cold-finished products can be produced by either cold drawing or tube reducing. Under either process, hot-finished seamless hollows are first pickled in acid to remove scale and oxides from both the outside and inside surfaces. The hollows are then rinsed in water and coated, by dipping, with a lubricant.

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[12] Another respondent, Plymouth Tube Company ("Plymouth"), produces specialty cold-finished hollow products used in the semiconductor, aerospace, nuclear instrumentation, medical equipment, and pharmaceutical industries. Plymouth's Postconference Brief at 3. Plymouth argues that the Commission should exclude from the investigation the ultra high purity redraw hollows it purchases because there is no domestic production of such products. Plymouth's Postconference Brief at 7; Tr. at 92. When asked whether Plymouth was arguing for ultra high purity redraw hollows to be a separate domestic like product, Plymouth responded that it was not, but was making a point with respect to the scope of the investigation, and that the Commission should find that hot-finished and cold-finished hollow products constitute two domestic like products. Tr. at 92-93.

As noted above, the Commission cannot change the scope of the investigation. The Commission has consistently stated that it does not have the authority to "exclude" from its determination products that are included within the scope. *See, e.g.*, Fresh Garlic from the People's Republic of China, Inv. No. 731-TA-683 (Final), USITC Pub. 2825, at I-7 n.17 (Nov. 1994), *citing* Sandvik AB v. United States, 721 F. Supp. 1322, 1333 (Ct. Int'l Trade 1989), *aff'd*, 904 F.2d 46 (Fed. Cir. 1990).

[13] Confidential Report ("CR") at I-4, Public Report ("PR") at I-3.

[14] CR at I-4 - I-5, PR at I-3 - I-4.

[15] CR at II-1, PR at II-1.

[16] CR at I-6, PR at I-4.

For the cold-drawing process, the hollow is then pulled through a die and over an internal mandrel, reducing the outside diameter and increasing the length. The mandrel inside the hollow controls the inside diameter and the wall thickness. Alternatively, the hot-finished hollow can undergo tube reducing, in which a pair of rolls having tapered grooves is rolled and reciprocated along the outside of the tube so that a reduction of both the diameter and the wall thickness is accomplished against a fixed, tapered mandrel on the inside of the tube. When a particular tube size requires greater reduction in cross-sectional area than can be accomplished through a single reduction process (due to work-hardening of the steel, which prevents further cold reduction), the product may be annealed, pickled, and again cold-drawn in order to achieve further cold reduction. For very small diameter tubes, the sequence of annealing, pickling, and cold-drawing may be repeated several times. Both hot-finished and cold-finished hollow products are then further processed by annealing, pickling, straightening, and testing.[17]

Because cold-finished hollow products are produced from hot-finished hollow products, both are produced, up to a point, on some of the same equipment, using some of the same production processes and the same production employees. However, the production of cold-finished hollow products requires additional production equipment and processes that are not needed to manufacture the hot-finished products, *i.e.* cold-drawing and/or tube-reducing equipment.[18] Moreover, domestic producers appear to focus on one type of product; only one domestic producer made both hot-finished and cold-finished hollow products during the period of investigation.[19]

Both cold-finished and hot-finished hollow products can be used for some of the same general purposes.[20] However, many of the uses for hollow products require cold-finishing because this process results in less eccentricity, closer dimensional tolerances, smoother surfaces, greater hardness, and lower wall thickness ratios than hot-finishing.[21] Moreover, small diameter or thin-walled products must be cold-finished.[22]

Domestic producers state that there is a fair to low degree of interchangeability between cold-finished and hot-finished hollow products.[23] Customers generally buy cold-finished hollow products only when hot-finished hollow products will not meet their specifications.[24]

The channels of distribution are the same for hot-finished and cold-finished hollow products; both are sold to distributors and end users.[25]

The prices of cold-finished hollow products are significantly higher than the prices of hot-finished hollow products. Hot-finished hollow products are approximately half as expensive per pound as cold-finished hollow products.[26]

While the evidence is mixed, we find one like product for cold-finished and hot-finished hollow products, due to similarities in some physical characteristics; some overlap in uses; some common

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[17] CR at I-6 - I-7, PR at I-4 - I-5.

[18] CR at I-8, PR at I-6.

[19] CR at I-8, PR at I-6.

[20] CR at II-1, PR at II-1.

[21] CR at II-1, PR at II-1.

[22] CR at I-5, PR at I-4.

[23] CR at II-1, PR at II-1.

[24] CR at II-1, PR at II-1.

[25] CR at II-2, PR at II-2.

[26] CR at II-1, PR at II-1.

production equipment, processes, and workers; and identical channels of distribution. However, we recognize that there are distinctions between the two types of products, including some differences in physical characteristics, differing producer and customer perceptions, and some uses for which hot-finished hollow products are not suitable, *e.g.*, instrumentation tubes.[27] Moreover, additional processing on different equipment is needed to produce the cold-finished product, which results in a significant price differential. In any final phase investigation, we intend to reexamine closely whether cold-finished and hot-finished hollow products constitute separate like products.[28] [29]

### 2. Whether Extreme-Temperature Hollow Products Constitute a Separate Domestic Like Product

MC Tubular Products, Inc. ("MCTP") argues that grades TP 405, 410, 430, and 446 of specification A 268 constitute a separate like product because of their use in applications involving temperature extremes. However, MCTP admits that there is no domestic production of this product. Accordingly, the Commission must identify the domestic product that is most similar in characteristics and uses with the article subject to investigation.[30] Despite limited data on extreme-temperature hollow products, it appears that such products share fundamental characteristics with circular seamless stainless steel pipes, tubes, and hollow bars. Therefore, for purposes of this preliminary determination, we find that pipes, tubes, and hollow bars are most similar to extreme-temperature hollow products.

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[27] Japanese Respondents' Postconference Brief at 10.

[28] We note that, in Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan, Inv. Nos. 701-TA-376, 377 and 379 & 731-TA-788-793 (Final), USITC Pub. 3188, at 4, 7 (May 1999), the Commission reconsidered its preliminary finding of one domestic like product and determined in the final phase investigations that there were two domestic like products: hot-rolled and cold-rolled stainless steel plate in coils.

Chairman Bragg notes that upon reconsideration of the Commission's preliminary determination in Certain Stainless Steel Plate she continued to find one like product. *See* Dissenting Views of Chairman Lynn M. Bragg and Commissioner Stephen Koplan.

[29] Petitioners assert that pipes, tubes, and hollow bars comprise the same domestic like product. No other party argues to the contrary. Based on the limited information in the record, we find that there is no clear dividing line between pipes, tubes, and hollow bars. The physical characteristics are similar and overlapping. Pipes and tubes may be used for all of the same purposes, although hollow bars have other uses. Pipes and tubes are largely interchangeable and can be interchangeable with hollow bars in certain circumstances. All are produced on the same equipment by the same manufacturers and using the same employees, and all are sold to distributors as well as end-users. Price is not a distinguishing factor because the costs are determined primarily by the grade of the raw material used in production. Petitioners' Postconference Brief at 7-10.

[30] *See, e.g.,* Certain Cold-Rolled Steel Products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela, Inv. Nos. 701-TA-393-396 & 731-TA-829-840 (Preliminary), USITC Pub. 3214, at 10 n.58 (July 1999); *see also* Synthetic Indigo from China, Inv. No. 731-TA-851 (Preliminary), USITC Pub. 3222, at 7 (Aug. 1999) ("indigo slurry," a crude form of indigo, not considered a separate domestic like product because there is no domestic production of "indigo slurry" for domestic sale).

### 3. Whether Redraw Hollows Constitute a Separate Domestic Like Product

With respect to redraw hollows, using the finished/semifinished products analysis[31] we determine that redraw hollows do not constitute a separate domestic like product.[32] Redraw hollows are dedicated to the production of hollow products.[33] Because redraw hollows are used by producers of cold-finished hollow products, the market for redraw hollows is separate from the market for other hollow products.[34] Redraw hollows are commonly produced in grades and sizes (diameter and wall thickness) used for pipe, but are not finished (in terms of straightening, testing, and end finishing) in the same manner as pipe products.[35] Because additional processing is used to transform redraw hollows into hollow product, there is an additional cost, although it is not clear from the record exactly how much value is added by the additional processing.[36]

Thus, we determine that redraw hollows do not constitute a separate domestic like product.[37]

## D. Domestic Industry and Related Parties

The domestic industry is defined as "the producers as a [w]hole of a domestic like product."[38] In defining the domestic industry, the Commission generally includes in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[39] Based on our finding that there is one domestic like product that consists of pipes, tubes, redraw hollows, and hollow bars, regardless of production process (hot- or cold-finished), we find one domestic industry.

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[31] In that analysis the Commission examines: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) significance and extent of the processes used to transform the upstream into the downstream articles. Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine, Inv. Nos. 731-TA-753-756 (Final), USITC Pub. 3076, at 7 n.37 (Dec. 1997); Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan, Inv. Nos. 731-TA-736-737 (Final), USITC Pub. 2988, at 6 n.23 (Aug. 1996).

[32] No party has argued that redraw hollows are a separate like product.

[33] CR at I-11, PR at I-8.

[34] CR at I-11, PR at I-8.

[35] CR at I-11 - I-12, PR at I-8.

[36] CR at I-12, PR at I-8.

[37] In a previous stainless steel pipe and tube investigation, the Commission determined that redraw hollows did not constitute a separate like product. *See* Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 2033, at 7. Similarly, in the recent Seamless Pipe investigations, the Commission determined to include redraw hollows in the same domestic like product. Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic, Japan, Mexico, Romania, and South Africa, Inv. Nos. 731-TA-846-850 (Preliminary), USITC Pub. 3221, at 11 n.44 (Aug. 1999).

[38] 19 U.S.C. § 1677(4)(A).

[39] *See* United States Steel Group v. United States, 873 F. Supp. 673, 681-684 (Ct. Int'l Trade 1994), *aff'd*, 96 F. 3d 1352 (Fed. Cir. 1996).

We must consider whether the production of hollow products includes the operations of redrawers/finishers, *i.e.* firms that provide cold-finishing processing.[40] In deciding whether a firm qualifies as a domestic producer, the Commission often analyzes the overall nature of a firm's production-related activities in the United States,[41] although production-related activity at minimum levels could be insufficient to constitute domestic production.[42]

As explained above, cold-drawing requires an additional investment in equipment. The original cost of the cold-drawers' assets totaled $86.7 million in 1998, with a book value of $35.8 million.[43] In 1998, they reported total capital expenditures of ***.[44] Cold-finishers employed a total of 643 production and related workers in 1998.[45] Thus, based on significant capital investment, the technical expertise required to produce cold-finished hollow products, and the large number of workers employed, we determine to include redrawers/finishers in the domestic industry in this investigation.[46]

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry as a related party pursuant to 19 U.S.C. § 1677(4)(B).[47] Section 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.[48] Exclusion of such producers is within the Commission's discretion based upon the facts presented in each case.[49]

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[40] No party has objected to the inclusion of redrawers/finishers.

[41] *See, e.g.*, Sulfur Dyes from China and the United Kingdom, Inv. Nos. 731-TA-548 and 551 (Final), USITC Pub. 2602 (Feb. 1993); Dry Film Photoresist from Japan, Inv. No. 731-TA-622 (Preliminary), USITC Pub. 2555, at 14 (Aug. 1992); Dynamic Random Access Memories of One Megabit and Above from the Republic of Korea, Inv. No. 731-TA-556 (Preliminary), USITC Pub. 2519, at 11-12 (June 1992).

[42] Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731-TA-702 (Final), USITC Pub. 2904, at I-8 (June 1995). The Commission generally considers six factors:

(1) source and extent of the firm's capital investment;
(2) technical expertise involved in U.S. production activities;
(3) value added to the product in the United States;
(4) employment levels;
(5) quantity and type of parts sourced in the United States; and
(6) any other costs and activities in the United States directly leading to production of the like product.

*See, e.g.*, Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan, Inv. Nos. 731-TA-736 and 737 (Final), USITC Pub. 2988, at 7-8 (Aug. 1996).

[43] CR/PR at Table VI-5. The total original cost of the hot-finishers' fixed assets was $52.1 million in 1998; the total book value was $36.4 million. CR/PR at Table VI-5.

[44] CR/PR at Table VI-5.

[45] CR/PR at Table C-5. Hot-finishers employed 191 production and related workers in 1998. CR/PR at Table C-3.

[46] In the previous Stainless Steel Pipe investigations, the Commission also included redrawers in the domestic industry. *See* Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 2033, at 8; Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 1966, at 8.

[47] No party has argued for any exclusions under this provision.

[48] 19 U.S.C. § 1677(4)(A).

[49] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd without opinion*, 904 (continued...)

We have considered whether to exclude three domestic producers under our related party analysis: Pennsylvania Extruded Tube Co. USA Inc. ("PEXCO"), a joint venture owned in part by a Japanese producer of subject merchandise, and *** and ***, domestic producers that also imported subject merchandise during the period of investigation.

PEXCO, one of the petitioners, is the largest domestic producer of the subject hollow products and is a joint venture between Sandvik Extruded Tube, Inc. ("Sandvik") and SMI Extruded Tube, Inc. ("Sumitomo"), a Japanese producer of hollow products. Under the joint venture agreement, Sandvik has a *** percent interest in PEXCO and Sumitomo has a *** percent interest.[50] PEXCO *** during the period of investigation, but rather sells its product to Sumitomo as well as to Sandvik.[51] Thus, PEXCO may be found to be a related party if PEXCO is under the corporate control of Sumitomo, *i.e.* Sumitomo is "legally or operationally in a position to exercise restraint or direction over" PEXCO.[52] Petitioners maintain that, given the relative shares of Sandvik and Sumitomo in the joint venture, and given the decision by PEXCO to participate as a petitioner in this investigation,[53] Sumitomo is not in control of PEXCO within the meaning of the statute.[54] Based on the limited information in the record, we agree with petitioners and, consequently, do not find that PEXCO is a related party.

Appropriate circumstances would not exist to exclude PEXCO from the domestic industry even if it were a related party. In 1998, PEXCO accounted for *** percent of domestic production of hot-finished hollow products and was ***.[55] Its interests appear to be those of a domestic producer, particularly in light of its status as a petitioner.

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[49] (...continued)
F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.* whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.* whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. *See, e.g.*, Melamine Institutional Dinnerware from China, Indonesia and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016, at 14 n.81 (Feb. 1997).

[50] CR at III-2, PR at III-1; Petitioners' Postconference Brief at 15. PEXCO is operated by a management committee composed of four members appointed by Sandvik and two members appointed by Sumitomo. Petition at 6 n.4.

[51] Petitioners' Postconference Brief at 15, 16.

[52] 19 U.S.C. § 1677(4)(B). Neither the statute nor the legislative history establishes a numerical percentage requirement for determining control. In the past, the Commission has found that control does not exist, absent evidence to the contrary, if the ownership interest is less than that necessary, in and of itself, to establish control. *See, e.g.*, Certain Structural Steel Beams from Germany, Japan, Korea, and Spain, Inv. Nos. 701-TA-401 & 731-TA-852-855 (Preliminary), USITC Pub. 3225, at 8 & n.40 (Sept. 1999); Engineered Process Gas Turbo-Compressor Systems from Japan, Inv. No. 731-TA-748 (Preliminary), USITC Pub. 2976, at 8 (July 1996).

[53] *See* Petition at 4 n.6; Amendment to the Petition at 1.

[54] Petitioners' Postconference Brief at 16.

[55] CR/PR at Table III-1.

As stated above, *** imported subject hollow products during the period of investigation[56] and thus are related parties.

*** primary interest appears to be in domestic production. It is a petitioner in this investigation, and domestically produced hollow products represented ***. *** is the *** and is the ***,[57] accounting for *** percent of domestic production of cold-finished hollow products in 1998.[58] *** has stated that it imported subject hollow products "because the price was too good to pass up."[59] Its subject imports accounted for *** percent of the value of its U.S. shipments of hollow products in 1998.[60] ***'s ratio of operating income to net sales was *** percent in 1998 -- *** among the domestic producers.[61] *** thus does not appear to be deriving a benefit from its importations of subject merchandise or to be shielded by its imports from the effects of any dumping that may be occurring. Therefore, we find that appropriate circumstances do not exist to exclude *** from the domestic industry.

In 1998, *** accounted for *** percent of domestic production of cold-finished hollow products.[62] As to why *** imported subject hollow products, it explained only that it was "the successful bidder."[63]

It is somewhat difficult to determine whether *** primary interest lies in domestic production as opposed to importation. *** is the *** domestic producer of hollow products[64] and imported *** subject merchandise, but its subject imports accounted for *** percent of the value of its U.S. shipments of hollow products in 1998.[65] Although *** is not a petitioner, it has indicated that it *** the petition.[66] *** provided no financial information, so it is unknown whether or not it is deriving a benefit from its importations of subject merchandise or is shielded from the effects of any dumping that may be occurring. Because of *** volume of its subject imports, as well as the fact that no party has argued for its exclusion, we find that appropriate circumstances do not exist to exclude it from the domestic industry in this preliminary phase of the investigation.

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[56] CR/PR at Table IV-3.

[57] *Compare* CR/PR at Table III-1 *with* Tables III-2 & III-3.

[58] CR/PR at Table III-1.

[59] CR/PR at Table IV-3 n.1.

[60] *See* ***'s Producer and Importer Questionnaire Responses.

[61] CR/PR at Table VI-3.

[62] CR/PR at Table III-1.

[63] CR/PR at Table IV-3 n.2.

[64] *Compare* CR/PR at Table III-1 *with* Tables III-2 & III-3.

[65] *See* ***'s Producer and Importer Questionnaire Responses. *** bought *** redraw hollows from Japan, *see* CR/PR at Table IV-3 n.2, which are more costly than *** redraw hollows. The value of its subject import purchases fluctuated widely over the period of investigation. In 1996, its subject imports accounted for *** percent of the value of its U.S. shipments of hollow products; in 1997, the corresponding figure was *** percent. In interim 1998, *** subject imports accounted for *** percent of the value of its U.S. shipments of hollow products, but in interim 1999, the figure declined to *** percent. *See* ***'s Producer and Importer Questionnaire Responses.

[66] CR/PR at Table III-1.

## III. MATERIAL INJURY

### A. Reasonable Indication of Material Injury by Reason of Allegedly LTFV Imports

In the preliminary phase of antidumping duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[67] In making this determination, the Commission must consider the volume of 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.[68] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[69] In assessing whether there is a reasonable indication that 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.[70] 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."[71]

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry producing circular seamless stainless steel hollow products is materially injured by reason of subject imports from Japan that are allegedly sold in the United States at less than fair value.

#### 1. Conditions of Competition

We have examined several conditions of competition in making our determination as to present material injury. First, we note for the purposes of this preliminary investigation that it appears there is no one particular business cycle for stainless steel hollow products. Rather, there appear to be several cycles, each tied to the various industries in which the products are used.[72] The demand for hollow products is a derived demand, determined in large part by the health and activity level of a number of industries, including the oil and gas, chemical and petrochemical, semiconductor, and power generation industries. To the degree that certain producers specialize in products utilized by specific industries, the level of perceived demand might differ across the hollow products industry.

There was a notable difference between demand perceived by domestic producers over the period of investigation and that perceived by importers of Japanese hollow products. Several of the domestic producers in support of the petition reported that demand fell over most of the period of investigation. In contrast, importers of subject hollow products reported stable demand during 1996 and 1997, a large increase in demand in 1998, and a large drop in late 1998 and 1999.[73] Respondents argue that demand fell

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[67] 19 U.S.C. § 1673b(a).

[68] 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 . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). *See also* Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[69] 19 U.S.C. § 1677(7)(A).

[70] 19 U.S.C. § 1677(7)(C)(iii).

[71] 19 U.S.C. § 1677(7)(C)(iii).

[72] Petitioners' Postconference Brief at 19-20; Japanese Respondents' Postconference Brief at 19, 21; Tr. at 61, 78.

[73] CR at II-9 - II-10, PR at II-6.

sharply at the end of 1998, remained weak in 1999, but is now recovering.[74] The record indicates that apparent consumption for both hot- and cold-finished hollow products dipped in 1997 (more so for hot-finished), but rose (by two and four percent respectively) from 1996 to 1998. Apparent consumption of hot-finished hollow products fell 14 percent comparing the first half of 1999 to the first half of 1998; apparent consumption of cold-finished hollow products was 12.2 percent higher during the first half of 1999.[75] We intend to explore the impact of business cycles, and demand conditions, in any final phase investigation.

Another important condition of competition is the influence of raw material costs on stainless steel prices. There is some evidence in the record that the decreased price of nickel and chromium may explain some of the decline in prices of stainless steel hollow products.[76] However, decreased raw material costs may not necessarily result in decreased costs of production for hollow products as other costs may have changed as well.[77] In any final phase investigation, we intend to examine closely the relationship between raw material costs and the price of hollow products.

Based on the record in this investigation, it appears that there may be a high degree of substitution between domestic and imported hollow products from Japan for a relatively wide range of hot-finished and cold-finished products. For a small to moderate percentage of products, however, domestic suppliers do not make a product comparable to the subject imports.[78] There is evidence that the domestic industry does not currently manufacture certain types of hollow products or certain size ranges.[79] At the same time, there is also a small set of hollow products for which imports from Japan do not effectively compete with domestic hollow products. Finally, there is at least one product category in which hot-finished subject imports compete with cold-finished domestic hollow products.[80] We intend to obtain more information on these issues in any final phase investigation in order to assess more fully the extent of actual competition between domestic producers and subject imports.

Lastly, non-subject imports have a strong presence in the market. Throughout the period of investigation, they commanded a market share of over 40 percent for all stainless steel hollow products.[81]

### 2. Volume

[74] Japanese Respondents' Postconference Brief at 20-21; Tr. at 61-62, 78.

[75] CR/PR at Tables C-3 & C-5.

[76] Japanese Respondents' Postconference Brief at 22; MCTP's Postconference Brief at 6; Tr. at 65, 103, 104.

[77] *See* CR at V-1, PR at V-1.

[78] CR at II-12, PR at II-7.

[79] *See, e.g.*, Japanese Respondents' Postconference Brief at 39 (approximately 75 percent of the hot-finished imports of subject merchandise fall into categories that do not compete with U.S. production); *see also id*. at 26-28, 45. Among the types of products allegedly unavailable domestically are those meeting special chemistry requirements, super-hot-finished boiler pressure tubes, certain types of thin-walled hollow products, certain grades of specification A-268, hot-finished products over 3 inches in outer diameter, cold-finished products over 4 inches in outer diameter, and longer lengths of hollow products. CR at II-12 - II-13, PR at II-8.

[80] CR at II-12, PR at II-7.

[81] CR/PR at Table IV-4.

Section 771(C)(i) of the 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."[82]

Because hot-finished hollow products are used to manufacture cold-finished hollow products, combining domestic production data for the two types could result in some double-counting of hot-finished products. Therefore, for purposes of this preliminary determination, domestic consumption data are based only on domestic shipments of hot-finished hollow products and total subject imports. In any final phase investigation, we shall attempt to gather data in a way that avoids such double-counting.[83] However, our conclusion on volume of subject imports in this preliminary phase investigation would be the same whether we combined domestic shipment data, with the attendant double-counting, or examined hot-finished and cold-finished products separately to avoid double-counting.[84]

The quantity of subject imports of hollow products increased significantly between 1996 and 1998, from 17,992 short tons to 23,492 short tons; subject imports in the first half of 1999 were 11,598 short tons compared to 9,348 short tons in the first half of 1998.[85] Subject import market share increased steadily over the period, climbing from 33.7 percent in 1996 to 41.7 percent in 1998, and to 47.2 percent in the first half of 1999, compared to 35.9 percent in the first half of 1998.[86] At the same time, domestic market share decreased, falling from 18.3 percent in 1996 to 16.0 percent in 1998, and to 11.2 percent in the first half of 1999 (compared to 22.1 percent in the first half of 1998).[87] Nonsubject import market share also decreased over the period, falling from 48.0 percent in 1996 to 42.3 percent in 1998 and to 41.6 percent in the first half of 1999 (compared to 42.0 percent in the first half of 1998).[88]

Based on the foregoing, for purposes of this preliminary determination we find the volume of subject imports of hollow products from Japan and the increase in that volume to be significant, both in absolute terms and relative to consumption in the United States.

### 3. Price Effects of the Subject Imports

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

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

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[82] 19 U.S.C. § 1677(7)(C)(i).

[83] We request that parties propose a method of data collection to avoid double-counting of hot-finished hollow products in any final phase of the investigation.

[84] The trends for hot-finished hollow products generally correspond to the trends for all hollow products. *Compare* Table C-1 *with* Table C-3.

[85] CR/PR at Table IV-1. Respondents claim that customs data misclassify 13 chrome oil country tubular goods ("OCTG") as subject hollow products, thus overstating subject import volume. Japanese Respondents' Postconference Brief at 36-38, 40. Until Commerce or the Customs Service changes this classification, however, we consider the reported data to be correct.

[86] CR/PR at Table IV-4.

[87] CR/PR at Table IV-4.

[88] CR/PR at Table IV-4.

(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.[89]

As discussed above, for purposes of this preliminary phase determination we find that there may be a high degree of substitutability, and therefore direct competition, between a wide range of domestic and Japanese stainless steel hollow products.[90] There are a number of products, however, that are produced by either the domestic or Japanese producers, but not both, and for such products substitutability and competition would necessarily be more limited.[91] Nonsubject imports, which hold a large share of the domestic market, are also considered to compete with the domestic and Japanese products.[92] In any final phase investigation, we intend to seek information on the impact of nonsubject imports on domestic prices.

Raw material costs fell sharply over the period for many of the primary raw materials used in stainless steel production. Because raw materials generally account for more than half of the cost of hot-finished stainless steel hollow products,[93] we intend to seek information in any final phase of the investigation on the impact of these raw material cost reductions on domestic and subject import prices.

The Commission requested price data for four specific stainless steel hollow products.[94] The product pricing data show generally declining prices and significant underselling of the domestic product by subject imports throughout the period of investigation. The data for product 1 show persistent underselling in all possible comparisons, along with steadily falling prices.[95] Product 2 data show a significant degree of underselling, in 10 of 12 quarterly comparisons, and generally lower prices toward the end of the period.[96] Data for product 3 show mainly overselling, but there were limited comparisons possible.[97] Finally, for product 4, there were only two comparisons, both showing significant underselling,[98] and the data further suggest a shift from the domestic to import suppliers by mid-1998. On balance, we find that these data indicate significant underselling and price depression.[99]

While we recognize that they may be affected by changes in the product mix,[100] data on average unit values also support our conclusion on price effects, showing decreasing value trends and lower values for the subject imports from Japan. The average unit value (per ton) of subject imports decreased steadily over the period of investigation: from $5,497.24 in 1996 to $3,845.25 in 1998, and from $4,355.89 in the first half of 1998 to $3,150.88 in the first half of 1999.[101] At the same time, average unit net sales value

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[89] 19 U.S.C. § 1677(7)(C)(ii).

[90] *See* CR at II-12, PR at II-7.

[91] *See* CR at II-12 - II-14, PR at II-7 - II-9.

[92] *See* CR at II-16, PR at II-10.

[93] CR at V-1, PR at V-1.

[94] CR at V-6, PR at V-4.

[95] CR/PR at Table V-2.

[96] CR/PR at Table V-3.

[97] CR/PR at Table V-4.

[98] CR/PR at Table V-6.

[99] In any final phase investigation, we intend to seek pricing data on a wider and more representative set of products.

[100] CR at VI-5, PR at VI-1.

[101] CR/PR at Table C-1.

dropped from $9,088 in 1996 to $7,337 in 1998, but then rose slightly to $7,357 in the first half of 1999 (compared to $7,251 in the first half of 1998).[102]

[102] CR/PR at Table VI-2.

### 4. Impact

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[103] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[104] [105] [106]

For purposes of this preliminary investigation, we find that increasing volumes of subject imports of circular seamless stainless steel hollow products are having an adverse impact on the domestic industry. The record shows declines in many key indicators of the condition of the domestic industry.

For hot-finished hollow products,[107] capacity utilization rose from 74.5 percent in 1996 to 76.2 percent in 1998, but then dropped to 44.7 percent in the first half of 1999 compared to 80.3 percent in the first half of 1998.[108] For cold-finished hollow products, capacity utilization climbed from 36.4 percent in 1996 to 38.1 percent in 1998, then fell to 28.9 percent in the first half of 1999 compared to 37.4 percent in the first half of 1998.[109]

Production of hot-finished hollow products increased slightly between 1996 and 1998, from 11,818 short tons to 12,266 short tons. It then fell sharply to 4,171 short tons in the first half of 1999 compared to

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[103] 19 U.S.C. § 1677(7)(C)(iii). *See also* SAA at 851, 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.").

[104] 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).

[105] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce stated that the estimated dumping margins based on price to constructed value comparisons range from 30.86 to 156.81 percent, and that the estimated dumping margins based on price-to-price comparisons range from 11.72 to 49.17 percent. 64 Fed. Reg. at 63287.

[106] Chairman Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. *See* Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

[107] We were not able to obtain usable data for production capacity or capacity utilization on an industry-wide basis (*i.e.* hot-finished plus cold-finished). We therefore must analyze these indicators separately for each segment of the industry. The production capacity for hot-finished hollow products rose over the period of investigation, from 10,612 short tons in 1996 to 13,217 short tons in 1998, and from 6,910 short tons in the first half of 1998 to 8,338 short tons in the first half of 1999. CR/PR at Table III-2. Production capacity for cold-finished hollow products decreased somewhat between 1996 and 1998: from 18,650 short tons to 17,750 short tons. However, it rose from 9,455 short tons in the first half of 1998 to 10,425 short tons in the first half of 1999. CR/PR at Table III-3.

[108] CR/PR at Table III-2.

[109] CR/PR at Table III-3. In any final phase investigation, we intend to examine why capacity utilization for cold-finished hollow products has been so low.

7,204 short tons in the first half of 1998.[110] Production of cold-finished hollow products fell slightly from 8,248 short tons in 1996 to 7,942 short tons in 1998, and then fell to 3,753 short tons in the first half of 1999 compared to 4,013 short tons in the first half of 1998.[111]

The financial data are generally adverse. Net sales decreased by quantity and value over the period of investigation, reflecting the loss of market share to subject imports and the price erosion caused by subject imports.[112] Gross profit decreased from $27.8 million in 1996 to $17.4 million in 1998, and from $11.5 million in the first half of 1998 to $5.8 million in the first half of 1999.[113] Operating income fell even more sharply, from $16.6 million in 1996 to $7.5 million in 1998, and from $6.6 million in the first half of 1998 to $1.0 million in the first half of 1999.[114] The number of companies reporting operating losses increased in the first half of 1999.[115] The ratio of operating income to net sales fell from 9.9 percent in 1996 to 3.3 percent in 1997, but then rose to 5.7 percent in 1998. However, it fell sharply to 1.9 percent in the first half of 1999, compared to 8.9 percent in the first half of 1998.[116] The ratio of cost of goods sold to net sales increased over the period: from 83.4 percent in 1996 to 86.7 percent in 1998, and from 84.4 percent in the first half of 1998 to 89.4 percent in the first half of 1999.[117] [118]

Employment data also show a decline in the condition of the domestic industry. The number of production and related workers ("PRWs") declined steadily over the period of investigation, from 968 PRWs in 1996 to 834 in 1998, and to 755 PRWs in the first half of 1999 (compared to 856 in the first half of 1998).[119] Hours worked followed the same trend, falling from 1.4 million hours in 1996 to 1.2 million hours in 1998, and from 631,000 hours in the first half of 1998 to 505,000 hours in the first half of 1999.[120]

Research and development expenses decreased steadily, from *** in 1996 to *** in 1998, and from *** in the first half of 1998 to *** in the first half of 1999.[121] Inventories increased over the period from

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[110] CR/PR at Table III-2.

[111] CR/PR at Table III-3.

[112] The quantity of net sales decreased from *** short tons in 1996 to *** short tons in 1998, and from *** short tons in the first half of 1998 to *** short tons in the first half of 1999. The value of net sales decreased from *** in 1996 to *** in 1998, and from *** in the first half of 1998 to *** in the first half of 1999. CR/PR at Table VI-1.

[113] CR/PR at Table VI-1.

[114] CR/PR at Table VI-1.

[115] *See* CR/PR at Table VI-3.

[116] CR/PR at Table VI-1.

[117] CR/PR at Table VI-1.

[118] There is a wide disparity in performance among the domestic producers. In any final phase investigation, we intend to examine closely whether factors other than imports may explain some of the producers' poor performance, while being mindful of our obligation to examine the industry as a whole.

[119] CR/PR at Table III-9.

[120] CR/PR at Table III-9.

[121] CR/PR at Table VI-5. However, capital expenditures increased over the period due to an investment of ***. CR at VI-10, PR at VI-6. Capital expenditures increased from $8.3 million in 1996 to $14.8 million in 1998, and from $2.7 million in the first half of 1998 to $2.9 million in the first half of 1999. CR/PR at Table VI-5.

1,586 short tons in 1996 to 1,866 short tons in 1998, and from 1,459 short tons in the first half of 1998 to 1,787 short tons in the first half of 1999.[122]

Based on the declines in capacity utilization, production, net sales, gross profit, operating income, employment indicators, and research and development expenses, as well as increases in the ratio of cost of goods sold to net sales and inventories, we find, for purposes of this preliminary investigation, a reasonable indication that subject imports are having an adverse impact on the domestic industry producing stainless steel hollow products.[123]

## CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that the domestic industry producing circular seamless stainless steel hollow products is materially injured by reason of imports of circular seamless stainless steel hollow products from Japan.

[122] CR/PR at Table III-8.

[123] The Commission is mindful of the possible impact on the domestic industry of non-subject imports, which held over 40 percent of the market throughout the period of investigation. However, non-subject import market share declined steadily: from 48.0 percent in 1996 to 42.3 percent in 1998, and from 42.0 percent in the first half of 1998 to 41.6 percent in the first half of 1999. CR/PR at Table IV-4. In any final phase investigation, we intend to collect more information on the impact of non-subject imports.