

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. AA-1921-114 (Review)

STAINLESS STEEL PLATE FROM SWEDEN

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping finding on stainless steel plate from Sweden would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²

BACKGROUND

The Commission instituted this review on August 3, 1998 (63 F.R. 41288) and determined on November 5, 1998 that it would conduct a full review (63 F.R. 63748, November 16, 1998). Notice of the scheduling of the Commission's review 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* on December 24, 1998 (63 F.R. 71300). The hearing was held in Washington, DC, on May 11, 1999, 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 Bragg dissenting.

The Commission transmitted its determination in this review to the Secretary of Commerce on July 6, 1999. The views of the Commission are contained in USITC Publication 3204 (July 1999), entitled *Stainless Steel Plate from Sweden: Investigation No. AA1921-14 (Review)*.

By order of the Commission.

Donna R. Koehnke
Secretary

Issued:

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping finding covering stainless steel plate from Sweden would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.^{1 2}

I. BACKGROUND

In May 1973, the Commission determined that an industry in the United States was being injured by reason of imports of stainless steel plate from Sweden sold at less than fair value.³ On June 8, 1973, the Department of the Treasury issued an antidumping finding on stainless steel plate from Sweden.⁴ On August 3, 1998, the Commission instituted a review pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”), to determine whether revocation of the antidumping finding on stainless steel plate from Sweden would be likely to lead to continuation or recurrence of material injury.⁵

In five-year reviews, the Commission initially determines whether to conduct a full review (which would generally include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties -- domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) -- demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.⁶ If the Commission finds the responses from both groups of interested parties to be adequate, it will determine to conduct a full review.

In this review, the Commission received responses to the notice of institution from: (1) six domestic producers of stainless steel plate, (2) two U.S. importers of subject merchandise, and (3) two foreign producers or exporters of subject merchandise. On November 5, 1998, the Commission determined that all individual interested party responses to its notice of institution were adequate, that the domestic

¹ Chairman Lynn M. Bragg dissenting. Chairman Bragg determines that revocation of the antidumping finding covering stainless steel plate from Sweden would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Dissenting Views of Chairman Lynn M. Bragg.

² Commissioner Crawford concurs in the result but finds that there are four separate domestic like products in this review. See Concurring Views of Commissioner Carol T. Crawford.

³ Stainless Steel Plate from Sweden, Inv. No. AA1921-114, TC Pub. 573 (May 1973) (“Original Determination”).

⁴ 38 Fed. Reg. 15079 (June 8, 1973).

⁵ 63 Fed. Reg. 41288 (August 3, 1998).

⁶ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

interested party group response was adequate, and that the respondent interested party group response was adequate.⁷ Accordingly, the Commission decided to conduct a full five-year review.⁸

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

1. Product Definition

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”⁹ 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 under this subtitle.”¹⁰ In its final five-year review determination, Commerce defined the merchandise subject to the finding as:

[S]tainless steel plate from Sweden, which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting, and pitting.¹¹

Commerce specifically included the stainless steel plate products Stavax ESR, UHB Ramax, and UHB 904L, whether forged or flat-rolled, and Swedish hot bands produced from British slabs within the scope of the antidumping finding.¹²

In several scope rulings since the issuance of the original antidumping finding, Commerce has defined the merchandise subject to the finding by reference to its chemical content and its physical dimensions.¹³ More specifically, Commerce has defined the stainless steel plate subject to the finding as being any stainless steel flat-rolled or forged product¹⁴ that has a chromium content between 11 and 30

⁷ See 63 Fed. Reg. 63748 (November 16, 1998).

⁸ *Id.*

⁹ 19 U.S.C. § 1677(4)(A).

¹⁰ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 96-249 at 90-91 (1979).

¹¹ Final Results of Expedited Review: Stainless Steel Plate from Sweden, 63 Fed. Reg. 67658 (Dec. 8, 1998). The notice also provides that the stainless steel plate subject to the review is classified under HTSUS item numbers 7219.11.0000, 7219.12.0005, 7219.12.0015, 7219.12.0045, 7219.12.0065, 7219.12.0070, 7219.12.0080, 7219.21.0005, 7219.21.0050, 7219.22.0005, 7219.22.0010, 7219.22.0030, 7219.22.0060, 7219.31.0010, 7219.31.0050, 7220.11.0000, and 7228.40.0000. *Id.*

¹² *Id.*

¹³ Stainless Steel Plate from Sweden, Final Results of Redetermination Pursuant to Court Remand, Court No, 95-08-01024, dated October 10, 1997; Final Scope Ruling: Stainless Steel Plate from Sweden, dated September 6, 1994; Final Scope Ruling: Stainless Steel Plate from Sweden, dated July 11, 1995; Final Scope Ruling: Stainless Steel Plate from Sweden, dated Sept. 6, 1994.

¹⁴ These products are also defined by having a carbon content of less than one percent. *Id.*

percent and that is 10 inches or more in width and 3/16 inch or more in thickness.¹⁵ Accordingly, for purposes of this review, stainless steel plate has been defined as:

any flat-rolled or forged product, whether or not in coils or cut-to-length, that contains, by weight, more than 11.0 percent and less than 30.0 percent of chromium and that is 0.1875 inch (4.75mm) or more in thickness and 10 inches (254mm) or more in width. Stainless steel plate is generally of rectangular cross section and may or may not be annealed or otherwise heat-treated, pickled or otherwise descaled, or cold-rolled. Non-rectangular shapes also may be considered stainless plate provided that they do not assume the character of fabricated items of stainless steel.¹⁶

Generally, the stainless steel plate covered by the scope of the order is used primarily for the fabrication of storage tanks, process vessels, and equipment in the chemical, dairy, restaurant, pulp and paper, pharmaceutical, and other industries where the corrosion-resistance, heat resistance or ease of maintenance of stainless steel is needed.¹⁷ Stainless steel plate is also used for the production of stainless steel pipe and tube, to be used in the same industries above.¹⁸

The following basic types of stainless steel plate are covered by the scope of this review:

- **Black Plate:** Black plate is a semi-finished stainless steel plate product that has been hot-rolled or forged but has not otherwise been annealed, pickled or heat treated.¹⁹ Black plate is primarily used in the production of finished (i.e., annealed and pickled) stainless steel plate products. It is also used to produce stainless steel sheet and strip and pipe and tube products.
- **Piece Plate:** Piece plate is a stainless steel plate product that is hot-rolled or forged but is not coiled. Unlike plate in coils, piece plate is produced as a finished product in discrete, flat lengths.²⁰ Piece plate may be produced on either a reversing plate mill or a Steckel mill.²¹ As a general rule, piece plate is produced in greater thicknesses or widths than coiled stainless steel plate.²²
- **Hot Rolled, Annealed and Pickled Plate in Coils:** Hot-rolled annealed and pickled plate in coils is a stainless steel plate product that is produced by hot-rolling black plate in coils to a specified thickness, followed by annealing and pickling.²³ A final light cold-rolling pass, such as a skin pass or temper pass, subsequent to annealing and pickling, may be used to improve the finish but this pass does not change the product to a cold-rolled product.

¹⁵ *Id.*

¹⁶ Confidential Staff Report (“CR”), dated June 7, 1999, at I-1, Public Staff Report (“PR”) at I-1.

¹⁷ CR at I-14; PR at I-10.

¹⁸ CR at I-14, PR at I-10.

¹⁹ See CR at I-16, PR at I-11.

²⁰ CR at I-14, PR at I-10.

²¹ CR at I-16, PR at I-11.

²² See CR at I-14, PR at I-10.

²³ CR at I-13-17, PR at I-9-12.

Hot-rolled coiled plate is produced on a continuous rolling mill, but may be produced on a Steckel mill as well.²⁴

- Cold-Rolled Plate in Coils: Cold-rolled plate is a stainless steel plate product that is produced by rolling a hot-rolled, pickled or descaled coil to a specified final thickness on a reversing cold-reduction mill. Generally, the final thickness of the cold-rolled coil is at least 25 percent less than the original hot-rolled coil. Following cold-rolling, annealing and pickling is required.²⁵
- Cut-to-Length Plate: Cut-to-length (“CTL”) plate is a stainless steel plate product, hot-rolled or cold-rolled, that is produced by cutting coiled plate to a specified length.²⁶
- Mold and Mold-Holder Plate: Mold and mold-holder plate is stainless steel plate, whether hot-rolled or forged, that is produced directly on a plate mill or forged and is not coiled. It is used to make molds and mold-holders for the plastics or rubber molding industry.²⁷ Examples of this merchandise are Stavax ESR and Ramax, produced by Uddeholm Tooling AB, a Swedish firm.²⁸

2. Arguments of the Parties

In this review, petitioners²⁹ contend that the Commission should find one domestic like product, consisting of all stainless steel plate within the scope of the review.³⁰ They argue that the statutory scheme underlying sunset reviews will most effectively be implemented if the Commission leaves the original like product finding intact for purposes of its analysis.³¹ If the Commission should choose not to find one domestic like product in this review, however, they argue that the Commission should find three separate domestic like products, consisting of black plate, plate in coils (including both hot-rolled and cold-rolled plate in coils), and plate not in coils (including both piece plate and cut-to-length plate).³²

Respondents Avesta Sheffield AB (a Swedish producer of the subject merchandise) and Avesta Sheffield NAD, Inc. (a U.S. producer and importer of stainless steel plate) (collectively, “Avesta”) contend, on the other hand, that the Commission should find four separate domestic like products in this review, consisting of black plate (including black plate in coils and not in coils), piece plate, hot-rolled annealed

²⁴ CR at I-16, PR at I-11.

²⁵ CR at I-17, PR at I-11.

²⁶ See CR at I-17, PR at I-11.

²⁷ CR at I-13, PR at I-9.

²⁸ *Id.*

²⁹ For ease of reference, we refer to the domestic producers who support continuation of the finding as “petitioners” throughout this opinion.

³⁰ Petitioners’ Posthearing Brief (“PPB”), dated May 20, 1999 at 1-4 & Ex. 1, pp. 27-32; Transcript of Commission Hearing, May 11, 1999 (“Tr.”) at 81.

³¹ PPB at 29.

³² PPB at 3-6.

and pickled plate in coils, and cold-rolled plate in coils.³³ In addition, the Swedish producer Uddeholm Tooling AB and its related importer Boehler Uddeholm Corporation (collectively, “Uddeholm”) argue that mold and mold holder plate should be found to be a separate domestic like product from all other forms of stainless steel plate.³⁴

3. Analysis and Finding

The starting point of our like product analysis in a five-year review is the like product definition in the Commission’s original determination. Because the Antidumping Act, 1921, did not contain a “like product” provision, the Commission did not make a like product determination *per se* in its original determination. Instead, it stated that the “domestic industry” at issue “consists of the facilities of domestic producers engaged in the production of stainless steel plate.”³⁵ Thus, in the context of current statutory terminology, the Commission effectively treated stainless steel plate, as that product was defined by the scope of the investigation, as a single domestic like product. We find that the circumstances in this case do not warrant a different approach. Accordingly, for the purposes of this review, we find that there is one domestic like product, consisting of all stainless steel plate.

In making this finding, we note that we recently considered similar domestic like product issues in the antidumping/countervailing duty investigations covering certain stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan (hereinafter, the “Coiled Plate investigations”).³⁶ In the Coiled Plate investigations, finalized in May 1999,³⁷ the Commission considered whether black plate, piece plate, and cut-to-length plate should be considered part of the same domestic like product as hot-rolled annealed and pickled plate in coils and cold-rolled plate in coils. After a close examination of the record, the Commission determined not to include black plate, piece plate, or cut-to-length plate within the same domestic like product as hot-rolled annealed and pickled plate in coils and cold-rolled plate in coils.³⁸ In addition, a majority of the Commission found that hot-rolled annealed and pickled plate in coils and cold-rolled plate in coils were separate domestic like products.³⁹

Our domestic like product finding in each investigation and review is based on the facts, record and legal parameters of the proceeding in question.⁴⁰ Accordingly, a domestic like product definition in an

³³ Avesta’s Prehearing Brief (“AB”), dated April 30, 1999, at 13-24.

³⁴ Uddeholm’s Prehearing Brief (“UB”), dated April 29, 1999, at 5-15.

³⁵ Original Determination, USITC Pub. 573 at 3, n.1.

³⁶ Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, Korea, South Africa, and Taiwan, Inv. Nos. 701-TA-376-379 (Preliminary) and 731-TA-788-793 (Preliminary), USITC Pub. 3107, at 9 (May 1998)(“Coiled Plate Preliminary”); Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, Korea, South Africa, and Taiwan, Inv. Nos. 701-TA-376, 377 & 379 (Final) and 731-TA-788-793 (Final), USITC Pub. 3188, May 1999 (“Coiled Plate Final”).

³⁷ Coiled Plate Preliminary at 4-15; Coiled Plate Final at 4-7.

³⁸ Coiled Plate Preliminary at 5-10; Coiled Plate Final at 4, n.11.

³⁹ Coiled Plate Final at 3-8. Chairman Bragg and Commissioner Koplan found that hot-rolled and cold-rolled stainless plate in coils were part of the same domestic like product. Coiled Plate Final at 3, n. 2 & 29-31. Commissioner Koplan notes that he was not a member of the Commission at the time of the preliminary determinations in those investigations.

⁴⁰ *See, e.g., Citrosuco Paulista, S.A., v. United States*, 704 F.Supp. 1075, 1087-88 (CIT) (noting that
(continued...))

earlier investigation is not dispositive in a later proceeding. While we recognize the similarities between the domestic like product issues in this review and the Coiled Plate investigations, we believe that there are significant procedural and legal distinctions between the recent coiled plate investigations and this review that support our finding one domestic like product in this review, consisting of all stainless steel plate.

First and most importantly, the procedural posture of this proceeding is distinguishable from the Coiled Plate investigations, which were original injury investigations under 19 U.S.C. §§1673b & 1673d. This proceeding is a five-year -- or “sunset” -- review of an existing antidumping finding under 19 U.S.C. §1675 and therefore involves different legal considerations than an original injury investigation. Specifically, we are required to consider in a five-year review the Commission’s findings in its prior injury determinations, which includes its like product findings.⁴¹ As a result, for the purposes of our analysis, we have taken as our starting point the Commission’s original like product finding.⁴²

Second, the scope of this review is substantially different than the scope of the Coiled Plate investigations. The scope of the Coiled Plate investigations did not cover all of the stainless steel plate products described above. Instead, the scope of those investigations covered only hot-rolled and cold-rolled stainless steel plate in coils that had been annealed and pickled.⁴³ In this review, the scope covers all stainless steel plate, including piece plate, black plate and cut-to-length plate as well as hot-rolled and cold-rolled plate in coils.⁴⁴ Given that the initial consideration in our domestic like product analysis is whether there is a domestically produced product that is “like” the imported merchandise subject to review,⁴⁵ our analysis with respect to black plate, piece plate, and cut-to-length plate starts with substantially different parameters than those in the Coiled Plate investigations.

Finally, we note that petitioners argued in this review that the Commission should adopt the Commission’s original like product -- all stainless steel plate -- as the domestic like product in this proceeding. The domestic producers made a different argument on domestic like product in the Coiled Plate investigations, arguing that black plate, piece plate and cut-to-length plate should not be considered part of the same domestic like product as coiled plate.⁴⁶

⁴⁰ (...continued)

each investigation is sui generis and that Commission is not bound by prior like product determinations but also noting that differing like product definition must be based on a rational basis discernible to the reviewing court).

⁴¹ 19 U.S.C §1675a(a)(1)(A). Again, as we noted above, the Commission made no formal like product finding but, in effect, treated stainless steel plate as a single like product.

⁴² We note that in its Notice of Final Rulemaking regarding five-year reviews the Commission specifically reserved the ability to revisit its original domestic like product and domestic industry determinations in five-year reviews. 63 Fed. Reg. 30599, 30602 (June 5, 1998). In particular, the Commission stated by way of example that “the Commission may revisit its like product determination when there have been significant changes in the products at issue since the original investigation or when domestic like product definitions differed for individual orders within a group concerning similar products.” *Id.*

⁴³ Coiled Plate Preliminary at 4. In other words, the scope of the investigation did not cover black plate, piece plate, cut-to-length plate, or mold and mold-holder plate in piece form. *Id.*

⁴⁴ CR at I-12-13, PR at I-9. On a value basis, only 10.8 percent of the imports subject to investigation in the Coiled Plate investigations overlap with imports in this review. EC-W-048 at 1.

⁴⁵ *See* 19 U.S.C. §1677(10).

⁴⁶ Although the Commission determined that there were sufficient distinctions between these products and hot-rolled and cold-rolled coiled plate to consider them separate domestic like products in the Coiled Plate

(continued...)

Accordingly, we find that there is one domestic like product in this review, consisting of all stainless steel plate, whether coiled or uncoiled, whether or not annealed and pickled, or whether or not cut-to-length.^{47 48 49}

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.”⁵⁰ 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,

⁴⁶ (...continued)

investigations, the Commission did note in its opinion that these products share some similarities with respect to physical characteristics and end uses, manufacturing facilities and processes, interchangeability, customer and producer perceptions, and channels of distribution. Coiled Plate Preliminary at 5-13; Coiled Plate Final at 5-8. Thus, it is not unreasonable in the context of this proceeding to consider all stainless steel products to be part of a continuum of products within the scope of the finding.

⁴⁷ This review presents one issue not addressed in the Coiled Plate investigations, whether mold and mold holder plate should be included within the same domestic like product as other forms of stainless steel plate. The Swedish producer Uddeholm argues that mold and mold holder plates should be considered a separate domestic like product from the other forms of stainless steel plate, while petitioners contend it is not a separate domestic like product. UB at 7-12; PB at 21-25. On the whole, we find that mold and mold holder plate are part of the same domestic like product as other stainless steel plate. Uddeholm asserts that mold and mold holder plate products should be found part of a different domestic like product category because its own products (Stavax and Ramax) are ultrahard, martensitic steels in the grade 420 category of plate products that are used primarily for the production of mold and mold holder production equipment. However, the record indicates that these products are clearly within the stainless steel plate category covered by this review. UB at 7-8. Mold and mold holder plate falls into one of literally dozens of grades and specifications of stainless steel plate within the 400 series of martensitic stainless steel plate, many of which the domestic industry produces. PB at Ex. 7; Tr. at 34. Moreover, the domestic industry produces stainless steel plate products in competition with Uddeholm's products, both in grade 420 and in other grades. Tr. at 19. Further, grade 420 steels are used not only for mold and mold holder applications but have a number of other applications as well. PB at Ex. 4. Even Uddeholm concedes that its own mold holder products can be used for other end uses to some degree. Tr. at 144. Mold and mold holder plates are sold in somewhat similar channels of distribution as other forms of plate, CR at I-25-26, PR at I-17, are produced in the same facilities by domestic producers as other forms of plate, PB at 25, CR and PR at Table I-2, & Tr. at 20, and have reasonably similar prices as other forms of plate. CR and PR at Tables V-2 & V-3. Accordingly, we believe that the record of this review indicates that mold and mold holder products are simply one subgroup of stainless steel plate products within a continuum of stainless steel plate products that are produced in a wide variety of grades, specifications, shapes and sizes.

⁴⁸ Vice Chairman Miller notes that her determination would not change if she performed her analysis using the three domestic like products also proposed by the domestic producers or the four domestic like products proposed by respondents. This opinion addresses the primary reasons supporting a negative determination under either of these alternative domestic like product definitions.

⁴⁹ Commissioner Hillman believes, in light of the Commission's recent investigation of stainless steel coiled plate, that there are also strong arguments for finding four domestic like products, corresponding generally to those proposed by Avesta. She would have also reached a negative determination had she found four domestic like products, for the same basic reasons set forth in the text of this opinion.

⁵⁰ 19 U.S.C. § 1677(4)(A).

whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.⁵¹ Accordingly, given our domestic like product finding above, we find in this review that the domestic industry includes all domestic producers of stainless steel plate.

In defining the domestic industry in this review, we have considered whether the domestic producer Avesta Sheffield NAD should be excluded from the domestic industry pursuant to the related parties provision in section 771(4)(B) of the Act.⁵² That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or that are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.⁵³

Avesta Sheffield NAD is a related party in this review because it is owned by the Swedish stainless steel plate producer, Avesta Sheffield AB.⁵⁴ It also imported subject merchandise in 1997 and 1998.⁵⁵ Accordingly, we address whether appropriate circumstances exist to exclude Avesta Sheffield NAD from the domestic industry or industries in this review.

On the whole, we find that appropriate circumstances do not exist to exclude Avesta from the domestic industry. Avesta was the *** U.S. producer of stainless steel plate in 1998, accounting for *** percent of domestic production in that year.⁵⁶ Moreover, the firm's imports of subject merchandise only amounted to *** percent and *** percent of its domestic production during 1997 and 1998, respectively.⁵⁷ This suggests that the primary interest of Avesta Sheffield NAD has been in domestic production, rather than importation. Further, during 1997 and 1998, the firm's operating income was ***, which suggests that the company has not benefitted by its importations of the subject merchandise.⁵⁸

⁵¹ See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996).

⁵² The report prepared in connection with the original determination did not discuss or present any data pertaining to the question of related parties, inasmuch as there was no related parties provision in the Antidumping Act, 1921.

⁵³ 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). Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd without opinion*, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

⁵⁴ CR at I-28, PR at I-19.

⁵⁵ CR at I-32, PR at I-21.

⁵⁶ CR and PR at Table I-2.

⁵⁷ CR at I-32, PR at I-21.

⁵⁸ CR and PR at Table III-8. For example, in 1998, ***. We note that no party has argued that the firm should be excluded from the domestic industry in this review.

III. REVOCATION OF THE FINDING ON STAINLESS STEEL PLATE FROM SWEDEN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping finding unless: (1) it makes a determination that dumping is likely to continue or recur, and (2), the Commission makes a determination that revocation of the finding “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁵⁹ The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo -- the revocation [of the order] . . . and the elimination of its restraining effects on volumes and prices of imports.”⁶⁰ Thus, the likelihood standard is prospective in nature.⁶¹ The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”⁶² According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”^{63 64}

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the

⁵⁹ 19 U.S.C. § 1675a(a).

⁶⁰ SAA, H.R. Rep. No. 103-316, Vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry).” SAA at 883.

⁶¹ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

⁶² 19 U.S.C. § 1675a(a)(5).

⁶³ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

⁶⁴ In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, his analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

subject merchandise on the industry if the order is revoked.” It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.^{65 66}

For the reasons stated below, we determine that revocation of the antidumping finding on stainless steel plate from Sweden would not be likely to lead to continuation or recurrence of material injury to the domestic stainless steel plate industry within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁶⁷ In performing our analysis under the statute, we have taken into account the following conditions of competition in the U.S. market for stainless steel plate.

Demand in the U.S. stainless steel plate market has been growing at a healthy rate in recent years and is expected to continue to grow at similar rates during the reasonably foreseeable future. Both importers and domestic producers reported that demand for stainless steel plate has increased during the past several years at a rate of three to six percent a year.⁶⁸ Apparent U.S. consumption of all stainless steel plate was nearly thirteen percent greater in 1998 than it was in 1997.⁶⁹ Moreover, importers and producers state that demand for stainless steel plate should continue to grow at a rate of three to five percent per year in the future.⁷⁰ Demand in the U.S. market has increased in recent years as purchasers of stainless steel plate have increasingly begun recognizing the life-cycle, environmental and process benefits of stainless steel plate in the production and marketing of their end products.⁷¹ During the period covered by the original investigation, however, demand was relatively stable, with apparent consumption fluctuating somewhat but consistently remaining between 68 thousand and 98 thousand tons during the nine years prior to the Commission’s determination.⁷²

⁶⁵ 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

⁶⁶ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce did not issue any duty absorption findings in this matter.

⁶⁷ 19 U.S.C. § 1675a(a)(4).

⁶⁸ CR at II-4, PR at II-3.

⁶⁹ Apparent U.S. consumption was approximately 383 thousand tons in 1997 and 434 thousand tons in 1998. CR and PR at Table I-4. Although consumption remained relatively stable in the hot-rolled coiled plate segment of the market between 1997 and 1998, apparent consumption of black plate and piece plate increased between 1997 and 1998. CR and PR at Tables C-2-C-6.

⁷⁰ CR at II-4, PR at II-3.

⁷¹ CR at II-4, PR at II-3; *see also* Tr. at 180-81.

⁷² Original Staff Report, dated April 1973, at 19.

Further, demand for stainless steel plate in the European market has been growing at a substantial rate in recent years and is expected to grow at a substantial rate in the near future.⁷³ The record indicates that consumption of coiled plate in Europe grew at an average annual rate of 15 percent between 1996 and 1998 and is expected to grow by an additional five percent per year in the near future.⁷⁴ The large bulk of Avesta's commercial shipments were made to the European market in 1997-98.⁷⁵

Since the time of the original investigation, technological advances in the production process for stainless steel plate have significantly changed the forms in which stainless steel plate is now available in the market. During the period covered by the original investigation, nearly all of the stainless steel plate that was commercially sold consisted of piece plate.⁷⁶ Since that time, technological advances have occurred that have allowed stainless steel producers to make and commercially market coiled plate products. Moreover, technological advances have allowed producers to make coiled plate in increasingly wider and thicker dimensions than previously available. For example, continuing advances in production technology have resulted in the addition of production facilities by domestic producers that will allow the industry to produce coiled plate in widths up to 96 inches, whereas the previous width limit was 60 inches for coiled plate.⁷⁷ The record of these investigations indicates that at least half of the finished stainless steel plate market in the United States now consists of coiled stainless plate.⁷⁸ Moreover, although there were little or no commercial sales of black plate and cold-rolled plate in 1973, there is an increasing commercial market for these products.⁷⁹

The record of this review further indicates that quality is the most important consideration in the purchase decision for stainless steel plate but that price is also an important factor in the purchase decision.⁸⁰ The record also indicates that there is a moderately high level of substitutability between the domestic merchandise and the subject imports, at least with respect to the same types of product.⁸¹ Nonetheless, the record indicates that this level of substitutability is limited by the fact that the Swedish producers generally produce coiled plate in wider dimensions than the domestic producers,⁸² they produce more specialty products than the domestic producers,⁸³ and they have focused more on production of cold-rolled merchandise,⁸⁴ a product produced in minimal amounts by the domestic industry.⁸⁵

Finally, non-subject imports have occupied a relatively important share of the stainless steel plate market, including the coiled plate segment of the market, during recent years. For example, in the overall

⁷³ APB at Att., Gossas Declaration, ¶¶4-8; Tr. at 118-19.

⁷⁴ *Id.* In the original determination, in contrast, the Commission noted that one of the principal reasons for increased Swedish concentration on the U.S. market was a significant decline in demand for stainless steel plate and sheet in Europe. Original Determination at 6.

⁷⁵ CR at II-3, PR at II-2.

⁷⁶ *See, e.g.*, 1983 Determination at 5.

⁷⁷ *See* CR at I-31, PR at I-20.

⁷⁸ CR and PR at Tables C-2 to C-5; Tr. at 56.

⁷⁹ *See* CR and PR at Table E-1.

⁸⁰ CR and PR at Table II-1.

⁸¹ CR at II-7-9, PR at II-5-6.

⁸² AB at Attachment, Gossas Declaration, ¶12; Tr. at 117, 122 & 166.

⁸³ Tr. at 117.

⁸⁴ *Compare* CR and PR at Table IV-7 with CR and PR at Table IV-6; AB at Att., Gossas Declaration, ¶¶4-12.

⁸⁵ CR and PR at Tables C-3, C-5 & E-1.

stainless steel plate market, non-subject imports accounted for *** percent of apparent consumption in 1998.⁸⁶ In the coiled plate segment of the market, non-subject imports accounted for *** percent of apparent consumption in 1998.⁸⁷ However, the Department of Commerce recently issued antidumping/countervailing duty orders covering the large majority of hot-rolled coiled plate imports following our affirmative determinations in the Coiled Plate investigations.⁸⁸ As detailed below, we have taken the issuance of these orders, and their likely disciplining effects on non-subject imports, into account as a further condition of competition in this market.

Based on the record evidence, we find that these conditions of competition in the stainless steel plate market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in this review, we find that current conditions in the stainless steel plate market provide us with a reasonable basis from which to assess the likely effects of revocation of the antidumping finding within the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the finding under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁸⁹ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) 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.⁹⁰

In its original determination, the Commission found that, in the three years prior to its finding, imports from Sweden had significantly increased their volumes and market share in the U.S. market.⁹¹ In particular, the Commission found that subject imports had increased their market share in the United States from two percent of apparent consumption in 1970 to 12 percent in 1972.⁹² It also noted that the subject imports accounted for 19 percent of all imports in 1970 but rose to nearly 58 percent of all imports in 1972.⁹³ Shortly after the finding was imposed in 1973, imports of the subject merchandise declined to low levels and have remained at low levels,⁹⁴ with the exception of an increase in their volumes during the period from 1994 to 1996, which we discuss below.⁹⁵

⁸⁶ CR and PR at Table I-4.

⁸⁷ CR and PR at Table C-2.

⁸⁸ 64 Fed. Reg. 25,288 (May 11, 1999) and 64 Fed. Reg. 27,756 (May 21, 1999).

⁸⁹ 19 U.S.C. § 1675a(a)(2).

⁹⁰ 19 U.S.C. § 1675a(a)(2)(A)-(D).

⁹¹ Original Determination at 5.

⁹² Original Determination at 6.

⁹³ Original Determination at 5.

⁹⁴ CR and PR at Figure IV-1.

⁹⁵ CR and PR at Figure IV-1.

Several factors support the conclusion that subject import volumes are not likely to be significant if the finding is revoked. First, the Swedish producers operated at high capacity utilization rates for their stainless steel products in 1997 and 1998.⁹⁶ The two Swedish producers reported capacity utilization rates of *** percent in 1997 and *** percent in 1998.⁹⁷ These reported capacity utilization levels confirm the statements made by Avesta, the primary Swedish producer of stainless steel plate products, that it is currently unable to ship significant volumes to the United States due to capacity constraints.⁹⁸ The existence of these high capacity utilization rates indicates that the Swedish producers are unlikely to be able to ship significant volumes of production to the United States market in the reasonably foreseeable future.⁹⁹

Moreover, we also examined the capacity utilization rates of the Swedish producers with respect to black plate, piece plate, hot-rolled coiled plate, and cold-rolled coiled plate. In the case of cold-rolled coiled plate and black plate, the Swedish producers have reported very high capacity utilization rates for both products, which indicates, as we stated above, that the Swedish producers are unlikely to ship significant volumes of black plate or cold-rolled plate to the United States within a reasonably foreseeable time.¹⁰⁰

Similarly, in the case of hot-rolled annealed and pickled coiled plate, the Swedish producers reported high levels of capacity utilization in 1998.¹⁰¹ Although there was some decline in the capacity utilization rate in 1998, all of this decline appears to be attributable to a decision of the Swedish producers to sell off their inventory in 1998.¹⁰² Moreover, because hot-rolled coiled plate is produced from black band, the high levels of capacity utilization for black band act as an effective bottleneck on possible increases in hot-rolled coiled plate production. Accordingly, we find that the record indicates that it is unlikely that the Swedish producers will be able to ship significant volumes of hot-rolled annealed and pickled coiled product to the United States within the reasonably foreseeable future.

With respect to piece plate, the Swedish producers have reported relatively low capacity levels for their production operations on piece plate in 1997 and 1998.¹⁰³ Although this indicates that the Swedish producers have substantial unused piece plate capacity available for the production of merchandise to be

⁹⁶ Neither Swedish producer has reported that it is planning capacity expansions in 1999 or 2000. CR at IV-6; PR at IV-4. Although *** *Id.*

⁹⁷ CR and PR at Table IV-4; *see also* Tr. at 124-29.

⁹⁸ AB at Attachment, Silfverlin Declaration, ¶¶11-30; Tr. at 127-28.

⁹⁹ Indeed, the decline in Swedish capacity utilization levels in 1998 appears to relate to the sell-off of a significant volume of inventory in 1998, given that their inventory levels dropped by more than *** tons in 1998, and not to a reduction in overall sales. CR and PR at Table IV-4.

¹⁰⁰ Reported capacity utilization rates for black plate were *** percent and *** percent in 1998 and 1997, respectively, for the Swedish producers. Capacity utilization rates for cold-rolled coiled plate were *** percent and *** percent in 1998 and 1997, respectively. CR and PR at Tables IV-5 & IV-7.

¹⁰¹ The capacity utilization rates reported by the Swedish producers for hot-rolled annealed and pickled coiled plate (including cut-to-length plate) was *** percent in 1997 and *** percent in 1998. CR and PR at Table IV-6. ***.

¹⁰² The Swedish producers reduced their inventories of hot-rolled coiled plate from *** tons in 1997 to *** tons in 1998. CR and PR at Table IV-6. If the Swedish producers had produced this merchandise for sale rather than selling it from inventory, their capacity utilization rate in 1998 would have been more than *** percent. *Id.* Given the depletion of its inventories, ***.

¹⁰³ The reported capacity utilization rates for the Swedish producers in 1997 and 1998 were *** percent and *** percent, respectively. CR and PR at Table IV-8.

shipped to the United States, we believe that it is unlikely that Avesta would ship significant volumes of piece plate to the United States in the reasonably foreseeable future. First, Avesta's subsidiary, Avesta Sheffield NAD, has been a domestic producer of piece plate for over 15 years and remains one of the largest producers of piece plate in the U.S. market.¹⁰⁴ Given the central position of Avesta Sheffield NAD in the U.S. piece plate market, we believe it is unlikely that Avesta would begin shipping significant volumes of piece plate to the United States, since these imports would in all likelihood compete with sales by its U.S. subsidiary. Moreover, we believe that, if Avesta were to seek to increase its U.S. sales of piece plate, it would most likely do so via its U.S. subsidiary.¹⁰⁵

Second, Avesta's decision not to ship significant amounts of piece plate from its British facility, even though those imports were not subject to the antidumping finding,¹⁰⁶ indicates that Avesta, as a corporate entity, has chosen not to supply piece plate to the United States from abroad.¹⁰⁷ We believe that the record indicates that Avesta will continue to pursue this strategy. Indeed, Avesta shut down its piece plate production facility in Britain in March 1999 and plans to service that facility's customers from its Swedish piece plate facilities.¹⁰⁸ This fact suggests that low capacity utilization rate reported by Avesta for its piece operations will not continue for the reasonably foreseeable future.

Stainless steel plate inventories in Sweden have been at low levels and declined significantly between 1997 and 1998. Between 1997 and 1998, inventories for all stainless steel plate in Sweden declined from *** percent of production to *** percent of production.¹⁰⁹ Given that the domestic producers' ratio of inventories to production was *** percent during both 1997 and 1998, we conclude that the level of Swedish inventories are not at such high levels that it is likely that there will be significant volumes of subject merchandise exported to the U.S. in the reasonably foreseeable future if the finding is revoked.¹¹⁰

There are no reported tariff or non-tariff barriers to trade in countries other than the United States for stainless steel plate exports from Sweden.¹¹¹ Indeed, the Swedish producers have consistently exported the vast bulk of their production not internally consumed to third-country markets other than the United States.¹¹² There is no basis to conclude that this pattern is likely to change in the reasonably foreseeable future.

¹⁰⁴ Tr. at 110, 119, & 130; APB at 4; CR at I-29, PR at I-19.

¹⁰⁵ Moreover, we do not wholly agree with the industry's contention that Avesta could ship thinner, narrower piece plate to the United States because its subsidiary concentrates on the production of wider, thicker piece merchandise in the market. PPB at 9 & 14. As Avesta's witnesses indicated at the hearing, Avesta Sheffield NAD is pursuing a marketing plan that encourages its customers to substitute wider and thicker piece product for product of thinner or narrower dimensions. Tr. at 199-200. Accordingly, if Avesta pursued the policy suggested by petitioners, it would again be in competition with its subsidiary and would be undermining its marketing efforts by doing so.

¹⁰⁶ AB at Att., Cheetham Declaration, ¶ 15; APB at 5-6.

¹⁰⁷ See Tr. at 130-31.

¹⁰⁸ AB at Attachment, Cheetham Declaration, ¶16.

¹⁰⁹ CR and PR at Table IV-4.

¹¹⁰ We also note that U.S. importers' inventories of subject merchandise were at minimal levels in 1997 and 1998. CR and PR at Table IV-3.

¹¹¹ CR at IV-7, PR at IV-5.

¹¹² CR and PR at Table IV-4.

Although the record indicates that Swedish producers of stainless steel plate produce non-subject products, such as stainless steel sheet and strip, on the same equipment and machinery that is used to produce stainless steel plate, the subject producers have indicated that their high capacity utilization rates apply to all products produced on these facilities.¹¹³ Moreover, they state that the non-subject products produced in these facilities, such as stainless sheet and strip, are higher value-added products that are more profitable than their stainless steel plate products and command a premium in the European market.¹¹⁴ Accordingly, while there is a potential for some product shifting to occur, there appears to be little likelihood that it will be significant.

In reaching our conclusion, we have taken into account the arguments made by petitioners. Specifically, although petitioners seek to persuade us otherwise, we do not find the increase in subject imports that occurred between 1994 and 1996¹¹⁵ to be indicative of an intent on the part of the Swedish producers to increase imports significantly in a reasonably foreseeable time.¹¹⁶ In this regard, we note that the record indicates that the bulk of this increase consisted of imports of black plate that was shipped to Avesta's coiled plate facility in Baltimore.¹¹⁷ When this facility was closed, these black plate imports ceased.¹¹⁸ We believe that the decision to close this facility was based on a number of factors and was not primarily the result of the Department of Commerce's decision to increase Avesta's dumping margin.¹¹⁹ Accordingly, we do not think that it is likely that Avesta would resume substantial shipments of black plate to the U.S. market within a reasonably foreseeable time, if the finding is revoked.¹²⁰

We also considered petitioners' argument that the recent imposition of antidumping duty orders on imports of coiled stainless plate from six countries will result in the shift of those exports from the U.S. market to the European market, which will consequently result in the displacement of substantial volumes of Swedish stainless steel plate imports from the European market to the U.S. market.¹²¹ We do not find this argument persuasive. While at least some of the producers in those countries are likely to increase their focus on the European market, they are likely to focus on other export markets as well. Moreover, we are not prepared to assume that Avesta would respond to increased competition from these countries for sales in Europe by abandoning its European customers and shifting substantial production volumes to the U.S. market, rather than by competing to retain those customers.¹²² The information on record indicates

¹¹³ See, e.g., Tr. at 127-28.

¹¹⁴ APB at 6; see also AB at Att., Silfverlin Declaration at ¶; Tr. at 128-29.

¹¹⁵ CR and PR at Figure IV-1.

¹¹⁶ PB at 2-5, 34-36, 53-54.

¹¹⁷ APB at 3; AB at Attachment, Stateczny Declaration, ¶¶14-16; Tr. at 120-21, 132-33.

¹¹⁸ *Id.* We also find that, while it is possible in theory that Avesta would re-open its Baltimore facility, the record does not indicate that a re-opening of the Baltimore facility is likely within a reasonably foreseeable time. See, e.g., AB at Att., Stateczny Declaration at ¶26.

¹¹⁹ See AB at Att., Stateczny Declaration, ¶¶23-26; PPB at Ex. 12.

¹²⁰ We do not find it likely, moreover, that Uddeholm would export significant quantities of stainless steel plate to the United States upon revocation of the order. Its Stavax and Ramax products are specialized products with limited applications and are therefore of limited demand. Nor is it likely that Uddeholm would export significant quantities of any other stainless steel plate product.

¹²¹ PPB at 10; Tr. at 50-51

¹²² See Tr. at 149-50.

that Avesta's primary marketing focus is, and will continue to remain, the European market.¹²³ In addition, it seems likely that the growth in demand in Europe would readily absorb these volumes.¹²⁴ Thus, we conclude that the recent orders will not result in a significant shift of Swedish production to the U.S. market.

Similarly, we do not find that the existence of price differentials for plate products in the European and U.S. markets indicates that Avesta is likely to shift significant volumes of stainless steel plate to the United States within a reasonably foreseeable time.¹²⁵ In this regard, we recognize that the U.S. prices of stainless steel plate products generally have been higher than European prices of similar products since January 1997.¹²⁶ Although a substantial price differential between markets might result in a decision by a producer to shift production between markets, we believe that existing price differentials between the markets have not been substantial enough or in existence for such a consistent period of time that Avesta would be likely to shift significant volumes of merchandise from Europe to the United States. In this regard, we note, as indicated by Avesta, that the price differentials between the two markets (on an unadjusted basis) are likely to be overstated because of cost differentials, primarily freight and duties, between the markets.¹²⁷ Moreover, as we indicated above, the record indicates that Avesta's marketing focus for stainless steel products remains on the European market. We believe it is unlikely that Avesta would jeopardize its existing customer relationships in Europe by shifting significant volumes of merchandise to the United States market, simply to obtain possible short-term gains from higher U.S. prices.¹²⁸

In light of the foregoing considerations, we conclude that subject import volumes are not likely to reach significant levels if the antidumping finding is revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping finding is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of domestic like products.¹²⁹

¹²³ See, e.g., Tr. at 117-118 & 149; see also PPB at Ex. 5, p. 5 (indicating that additions of capacity in U.S. will limit European exports to U.S.).

¹²⁴ During 1997 (the last year of the period of investigation in the coiled plate proceeding), the total volume of coiled plate imports into the United States for all six subject countries was 28,818 tons. Coiled Plate Final at IV-3. The record in this review indicates that apparent European consumption of coiled plate was approximately *** tons in 1998 and that consumption is forecast to grow by five percent (or *** tons) in 1999. AB at Attachment, Gossas Declaration at ¶5; see also Tr. at 150-51.

¹²⁵ Petitioners' Final Comments, dated June 16, 1999, at 4-6.

¹²⁶ Avesta Factual Submission ("AFS"), dated June 14, 1999, at Exs. 1 and 2.

¹²⁷ AFS at 2-3. However, we do not necessarily agree with Avesta's quantification of the overstatement in the price differentials between the markets but do agree that some overstatement exists. In this regard, we note that we lack detailed pricing information on the European market and that we therefore do not place great weight on this data.

¹²⁸ See AB at Attachment, Gossas Declaration, ¶¶13-20, Tr. at 122-23 & 149-50.

¹²⁹ 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in

(continued...)

In its original determination, the Commission found that prices of the subject imports were substantially lower than those of domestically produced stainless steel plate and that the difference in price was approximately equal to the margins found by the Department of Treasury.¹³⁰ It also found that this price competition had resulted in a cost/price squeeze, as domestic producers failed to keep pace with their costs of production, resulting in lowered profits and returns on investment.¹³¹

The record of these investigations indicates that price remains an important factor in the purchase decision.¹³² The record also indicates that there is a moderately high level of substitutability between the domestic merchandise and the subject imports, at least with respect to similar types of stainless steel products.¹³³ Accordingly, the record does suggest that there is a possibility that the subject merchandise could have significant effects on domestic prices if substantial volumes of the subject merchandise were imported within a reasonably foreseeable time.

Nonetheless, we believe that the subject merchandise will not have significant adverse effects on domestic prices within a reasonably foreseeable time. We have already concluded that the volume of the subject imports is not likely to be significant if the finding is revoked. Therefore we find that it is also unlikely that the subject merchandise would have significant adverse effects on domestic prices in the event of revocation.

Moreover, although the record suggests a moderately high level of substitutability between the domestic and subject merchandise for similar categories of products, it also indicates that the overall level of substitutability may be limited because the Swedish producers generally produce plate in wider dimensions than the domestic producers,¹³⁴ they are unlikely to ship significant volumes of piece plate to the U.S. market given the existence of Avesta's U.S. piece plate production facility, and they are increasingly concentrating their production operations on the production of cold-rolled merchandise, a product the domestic industry produced in minimal amounts.¹³⁵

Finally, although the record of this review indicates that the prices of domestic merchandise declined during 1998, we recently found that imports of coiled hot-rolled annealed and pickled plate from six countries contributed materially to those price declines.¹³⁶ The recent imposition of antidumping and

¹²⁹ (...continued)

considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

¹³⁰ Original Determination at 4.

¹³¹ Original Determination at 4 & 7.

¹³² CR and PR at Table II-1.

¹³³ CR at II-7-9, PR at II-5-6.

¹³⁴ CR at II-5-6, PR at II-3-4.

¹³⁵ *See, e.g.*, Tr. at 128-29. The Commission's pricing data in this review generated few usable price comparisons between the domestic and subject merchandise, limited to the specialized 420 grade of stainless steel plate. Although these limited data indicate the Swedish merchandise have consistently oversold the subject merchandise, CR and PR at Tables V-2 & V-3, these data are of limited probative value in evaluating the likely price effects of the subject imports as a whole.

¹³⁶ Coiled Plate Final at 17-20.

countervailing duty orders on those imports as a result of this finding should provide a significant measure of price discipline in this market in the very near term.¹³⁷

In light of our conclusion regarding the likely future volumes of imports, and the imposition of the recent orders on coiled hot-rolled stainless steel plate, we conclude that it is unlikely that the subject imports would undersell the domestic merchandise significantly or enter the United States at prices that would have significant depressing or suppressing effects on the prices for the domestic like product if the finding is revoked.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the finding is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹³⁸ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.¹³⁹ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping finding at issue and whether the industry is vulnerable to material injury if the finding is revoked.¹⁴⁰

In its original determination, the Commission found that the subject imports had significantly increased their volumes and market share as a result of LTFV pricing and that they had adverse price effects on domestic prices.¹⁴¹ As a result, the Commission determined that the domestic industry lost significant numbers of sales and market share and was caught in a cost/price squeeze that led to significantly reduced profitability levels and returns on investment.¹⁴²

¹³⁷ In this regard, we note that revocation of the antidumping finding on Swedish stainless steel plate will not occur until January 1, 2000.

¹³⁸ 19 U.S.C. § 1675a(a)(4).

¹³⁹ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). *See also* SAA at 887. In its final five-year review determination, Commerce published likely dumping margins of 24.67 percent for Avesta, 5.22 percent for Uddeholm and an “all others” margin of 5.22 percent. 63 Fed. Reg. at 67662; Stainless Steel Plate from Sweden: Amended Final Results of Antidumping Duty Administrative Duty Administrative Review: 63 Fed. Reg. 72283, 72284 (Dec. 31, 1998).

¹⁴⁰ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the finding is revoked, 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 may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

¹⁴¹ Original Determination at 5-6.

¹⁴² Original Determination at 6-7.

The record of this review indicates that the domestic industry's condition has improved in significant respects since the antidumping finding was made in 1973. In this regard, the industry retains the bulk of the market share in the overall stainless steel plate market,¹⁴³ its market share has increased significantly in the finished hot-rolled plate segments of the market,¹⁴⁴ and the industry's profitability levels are now somewhat higher than they were in 1972, the final year covered by the original investigation.¹⁴⁵ Moreover, just as apparent consumption has substantially increased since the time of the original investigation, the domestic industry's production and sales revenues have increased very substantially since the time of the original investigation.¹⁴⁶

Nonetheless, although the condition of the industry has improved in some respects since the antidumping finding, the industry is currently in a vulnerable condition. While it retains a dominant share of the overall stainless plate market, its market share is substantially lower than in 1973.¹⁴⁷ Moreover, its market share, operating income, shipments and production levels have all declined between 1997 and 1998, primarily as a result of competition from LTFV imports in the coiled plate segment of the stainless steel plate market.¹⁴⁸ Nonetheless, although the record of the Coiled Plate investigations and this review indicates that the industry is now vulnerable, we believe that the recent imposition of the orders on coiled plate imports from six countries is an important change in the market that should provide substantial protection to the domestic industry and will have a significant impact on market prices and market conditions. Thus, we believe that current vulnerability of the industry is a short term situation and that the industry will recover in large measure from its vulnerable state.¹⁴⁹

Notwithstanding its current vulnerable state, we find that the subject imports are not likely to adversely impact the domestic stainless steel plate industry if the antidumping finding is revoked. We found above that revocation of the antidumping finding is not likely to lead either to significant additional volumes of subject imports or significant price effects. These findings in turn indicate that the subject

¹⁴³ The industry's share of the market was 68.1 percent in 1997 and 54.0 percent in 1998. CR and PR at Table I-1.

¹⁴⁴ The industry had an *** percent share of the hot-rolled coiled plate market in 1998, CR and PR at Table C-2, and *** percent of the hot-rolled piece plate market, CR and PR at Table C-4.

¹⁴⁵ The industry's operating income as a percentage of sales was 1.5 percent in 1972, while its operating income as a percentage of sales was 5.5 percent and 3.8 percent in 1997 and 1998, respectively. CR and PR at Table I-1.

¹⁴⁶ The industry's shipments were 69,569 tons in 1972, while its shipments were 261,631 tons and 234,381 tons in 1997 and 1998, respectively. Similarly, the industry's net sales revenues were \$80 million in 1972, but were \$639.4 million and \$516.1 million in 1997 and 1998, respectively. CR and PR at I-1.

¹⁴⁷ The industry's share of the market declined from 89.5 percent in 1970 to 80.3 percent in 1972, before the antidumping finding was issued. The industry's overall share of the market was 68.1 percent in 1997 and 54.0 percent in 1998. CR and PR at Table I-1.

¹⁴⁸ CR and PR at Table I-1. In this regard, we note that the industry's operating income as a percentage of sales in the hot-rolled coiled segment of the market declined significantly from 1997 to 1998 (from a profit of *** percent to a loss of *** percent) and that its production levels and net U.S. sales levels declined significantly as well during that period. CR and PR at Table C-2. Its operating income on its hot-rolled piece plate sales has remained relatively good in 1998 (at a *** percent level) and its production and shipment levels in the piece plate market have remained stable. CR at Table C-4.

¹⁴⁹ In this regard, we note that the finding could not be revoked until January 1, 2000, which will provide the industry with an additional period of protection from competition with Swedish imports, thus further allowing it to recover from its vulnerable condition.

imports are not likely to have a significant adverse impact on the domestic industry as a whole in the reasonably foreseeable future if the finding is revoked. Moreover, as we indicated above, imposition of the recent orders on coiled stainless steel plate will likely impose discipline on prices in this market and will likely enable U.S. producers to capture business formerly served by countries now placed under the antidumping/countervailing duty orders. Finally, as noted above, demand in the U.S. market is predicted to grow within the near future, which will increase the likelihood that any increased imports of Swedish stainless steel plate would be absorbed by the growing market without adversely affecting the U.S. industry. Accordingly, we conclude that revocation of the antidumping finding would not be likely to lead to significant declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, have likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, or have likely negative effects on the domestic industry's development and production efforts within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping finding on stainless steel plate from Sweden would not be likely to lead to continuation or recurrence of material injury to the U.S. stainless steel plate industry within a reasonably foreseeable time.

DISSENTING VIEWS OF CHAIRMAN LYNN M. BRAGG

Based upon the record in this investigation, I find under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping finding on stainless steel plate from Sweden would be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

This five-year sunset review investigation is being conducted pursuant to the transition provisions of the Act and stems from the following actions. In May 1973, the Commission determined that an industry in the United States was being injured by reason of imports of stainless steel plate from Sweden that were being sold at less than fair value.¹ Subsequently, on June 8, 1973, the U.S. Department of the Treasury issued an antidumping finding on imports of stainless steel plate from Sweden.²

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based upon those responses deemed individually adequate, the Commission determines whether the collective response submitted by two groups of interested parties – domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.³ If the Commission finds the responses from either group of interested parties to be inadequate, the Commission may determine, pursuant to section 751(c)(3)(B) of the Act, to conduct an expedited review unless it finds that other circumstances warrant a full review.

In this review, the Commission received responses from 5 U.S. producers in support of continuance: Allegheny Ludlum Corporation; Armco, Inc.; Bethlehem Lukens Plate; G.O. Carlson, Inc.; and J&L Specialty Steel, Inc. The Commission determined that the domestic interested party group accounted for the preponderance of U.S. stainless steel plate production, and found the group’s response adequate.

The Commission received responses in support of revocation from Avesta Sheffield AB (“Avesta AB”) and Uddeholm Tooling AB, foreign producers/exporters; Avesta Sheffield NAD, Inc. (“Avesta NAD”), a U.S. producer and importer of stainless steel plate from Sweden; and Bohler Uddeholm Corporation, a related-party importer. Avesta AB accounted for approximately *** percent of the value of total exports to the U.S. of stainless steel plate from Sweden in 1997. Avesta NAD accounted for approximately *** percent of the value of total U.S. imports of stainless steel plate from Sweden in 1997. The Commission determined that the respondent group response was adequate.

¹ Stainless Steel Plate from Sweden, Inv. No. AA1921-114, TC Pub. 573 (May 1973).

² 38 Fed. Reg. 15079 (June 8, 1973).

³ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

II. DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

A. Domestic Like Product

In its original determination, the Commission stated that the domestic industry consists of the facilities of domestic producers engaged in the production of stainless steel plate, effectively treating all stainless steel plate as a single domestic like product.⁴ That determination was made pursuant to the Antidumping Act, 1921, which did not contain a “like product” provision. Under the current statutory framework, the Commission is required to define the “domestic like product” as it relates to Commerce’s scope determination.⁵

In this sunset review, Commerce has defined the scope to include any flat-rolled or forged product whether or not in coils or cut-to-length, that contains, by weight, more than 11.0 percent and less than 30.0 percent of chromium and that is 0.1875 inch (4.75mm) or more in thickness and 10 inches (254mm) or more in width.⁶

In performing my like product analysis, I begin with Commerce’s scope determination and look to see if there are clear dividing lines among possible like products. In this regard, I consider whether different types of products represent a “continuum” of articles within one like product rather than separate like products. In this review, I find the continuum approach controlling and therefore define the like product to include all stainless steel plate.

I note that in the recent Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan determination I found that stainless steel plate in coils was a single like product for purposes of that review.⁷ Importantly, Commerce’s scope determination in that investigation was limited to stainless steel plate in coils and excluded: (1) plate not in coils (piece plate); (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled (black band); (3) sheet and strip; and (4) flat bars. In contrast, in this sunset review the scope includes all stainless steel plate, without limitation.

B. Domestic Industry

There are nine domestic producers of stainless steel plate: Allegheny Ludlum, accounting for *** percent of domestic production; Armco *** percent; Avesta NAD *** percent; Ellwood Specialty Steels ***; G.O. Carlson *** percent; J&L Specialty Steel *** percent; North American Stainless *** percent; Universal Stainless *** percent; and Washington Steel *** percent.⁸

⁴ Report to the Commission, at 3 (April 1973).

⁵ 19 U.S.C. § 1677(4)(A) & 1677(10).

⁶ Stainless Steel Plate from Sweden, Final Results of Redetermination Pursuant to Court Remand, Court No. 95-08-01024, (October 10, 1997); Final Scope Ruling: Stainless Steel Plate from Sweden, (September 6, 1994); Final Scope Ruling: Stainless Steel Plate from Sweden, (July 11, 1995); and Final Scope Ruling: Stainless Steel Plate from Sweden, (September 6, 1994). Commerce found that Stavax, Ramax, 904L, and hot bands were subject to the original finding.

⁷ Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan, Inv. Nos. 701-TA-376, 377 & 379 (Final) and 731-TA-788-793 (Final), USITC Pub. No. 3188 (May 1999) (“SS Coiled Plate”).

⁸ Confidential Report (“CR”) at I-27, Public Report (“PR”) at I-18.

As noted earlier, domestic producer Avesta NAD, a wholly-owned subsidiary of Swedish stainless steel plate producer Avesta AB, is also one of two U.S. importers of the subject merchandise.⁹ The company imported *** of subject merchandise in 1997, and *** in 1998.¹⁰

Because domestic producer Avesta NAD is owned by the Swedish stainless steel producer Avesta AB, I first address the issue of whether appropriate circumstances exist to exclude Avesta NAD from the domestic industry. In original investigations, the factors examined by the Commission in deciding whether to exclude a related party 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; and (3) the position of the related producer vis-a-vis the rest of the industry.

In 1998, Avesta NAD was the *** producer of stainless steel plate in the U.S.¹¹ During 1997 and 1998, the firm's imports of subject merchandise amounted to *** percent and *** percent of its domestic production, respectively.¹² Accordingly, I conclude that Avesta NAD's primary interest lies in domestic production. I therefore find that appropriate circumstances do not exist to exclude Avesta NAD from the domestic industry.

III. REVOCATION OF THE FINDING ON STAINLESS STEEL PLATE IS LIKELY TO LEAD TO THE CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping finding unless: (1) it makes a determination that dumping is likely to continue or recur; and (2) the Commission makes a determination that revocation of a finding "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."¹³ The Uruguay Round Agreements Act ("URAA") Statement of Administration Action ("SAA") provides that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation [of the finding] . . . and the elimination of its restraining effects on volumes and prices of imports."¹⁴ Thus, the likelihood standard is prospective in nature. The statute states that "the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time."¹⁵ According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations]."¹⁶

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains many of the same fundamental elements. The

⁹ *Id.*

¹⁰ CR at I-32, PR at I-21.

¹¹ CR at I-29, PR at I-19.

¹² CR at I-29 & I-32, PR at I-19 & I-21.

¹³ 19 U.S.C. § 1675a(a).

¹⁴ URAA SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994).

¹⁵ 19 U.S.C. § 1675a(a)(5).

¹⁶ SAA at 887.

statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the [finding] is revoked.”¹⁷ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.”¹⁸

For the reasons set forth below, I determine that revocation of the antidumping finding on stainless steel plate would be likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹⁹ In performing my analysis under the statute, I have taken into consideration the following conditions of competition for stainless steel plate.

Since the imposition of the antidumping finding, overall domestic demand for stainless steel plate has grown at an annual rate of 6.4 percent.²⁰ However, this strong demand has not resulted in a healthy industry, especially when one considers that this industry must maximize profits in the upward cycle of demand to see it through the downward portion of the business cycle.

Between 1997 and 1998, domestic producers’ total sales volumes of stainless steel plate dropped by 6 percent, while total sales values declined by 19.3 percent.²¹ In 1972, prior to the imposition of the original finding, domestic producers’ market share was 80.3 percent.²² By 1998, domestic producers’ market share had dropped to 54 percent, with more than one half of the over-all decline occurring that year.²³ In contrast, the growth in total imports, subject and non-subject, since 1972 has averaged 10.7 percent, resulting in an increase in import market share from 19.7 percent in 1972 to 46.1 percent in 1998.²⁴

Another important element of my analysis of the conditions of competition in this review is the interplay between the Commission’s recent SS Coiled Plate decision and this sunset review. It is reasonable to expect that European stainless steel producers from Belgium and Italy, which accounted for approximately *** short ton import total in the SS Coiled Plate investigation, will redirect at least a portion of their previous U.S. sales to the European market as a result of the order in that investigation. Therefore, Swedish producers will be pressured in these same traditional markets and will have an incentive to increase exports to the U.S. in the event of revocation. In addition, a negative determination here coupled with the recent affirmative determination in SS Coiled Plate would create an incentive for Swedish

¹⁷ 19 U.S.C. 1675a(a).

¹⁸ *Id.*

¹⁹ 19 U.S.C. § 1675a(a)(4).

²⁰ CR at I-5, PR at I-4.

²¹ CR at III-6, PR at III-4.

²² CR at I-5, PR at I-4.

²³ *Id.*

²⁴ *Id.*

producers to increase imports to the U.S. to take the place of stainless steel previously sold by countries now subject to the SS Coiled Plate order.²⁵

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the finding under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.²⁶ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to importation of the subject merchandise into countries other than the United States; and (4) 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.²⁷

I conclude that the volume of subject imports is likely to increase significantly if the order is revoked. Before the imposition of the original antidumping finding, Swedish imports of stainless steel plate rose from 1,580 short tons in 1970 to 3,960 short tons in 1971, then surged to 9,985 short tons in 1972 (comprising over 11.5 percent of total U.S. consumption that year).²⁸ A review of the current record reveals that Swedish stainless steel plate producers, if given the incentive provided by revocation of the antidumping finding, have the ability to quickly recapture a similar presence in the U.S. market.

At the end of 1998, Swedish producers held *** short tons of stainless steel inventory and *** short tons of available capacity.²⁹ When viewed collectively, these figures are significant relative to both U.S. production and consumption. Together, the inventory and capacity, if directed to the U.S. market, would equate to *** percent of 1998 U.S. production³⁰ and *** percent of apparent U.S. consumption.³¹ Based on the foregoing, I find that revocation of the antidumping finding will likely result in significant volumes of subject imports from Sweden.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping finding is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product. The Commission must also consider whether the

²⁵ Swedish producers’ 1998 unused capacity of *** short tons is capable of replacing all of the stainless steel plate exported to the U.S. in 1997 by the countries subject to the recent SS Coiled Plate determination. CR at IV-8, PR at IV-4.

²⁶ 19 U.S.C. § 1675a(a)(2).

²⁷ 19 U.S.C. § 1675a(a)(2)(A)-(D).

²⁸ CR at I-5, PR at I-4.

²⁹ CR at IV-8, PR at IV-4.

³⁰ CR at III-1, PR at III-1.

³¹ CR at I-5, PR at I-4.

subject imports are likely to enter the U.S. at prices that would have a significant price depressing or suppressing effect on the domestic like product.³²

Due to the recent low volume of subject imports, there is little evidence upon which to make price comparisons between domestic stainless steel plate and subject imports. Nonetheless, I have considered all relevant economic factors within the context of the business cycle and the conditions of competition distinctive to the industry. As instructed by the statute, I have also considered the extent to which any improvement in the state of the domestic industry is related to the antidumping finding at issue and whether the industry is vulnerable to material injury if the order is revoked.

The Commission Report in this investigation indicates that there is a relatively high degree of substitution between U.S.-produced stainless steel plate and the imported product and that price is an important factor in purchasing decisions.³³ It also indicates that prices for domestic and imported stainless steel plate have generally fluctuated downward during the POI.³⁴ In addition, price data from the recent SS Coiled Plate decision reveals that the U.S. industry is vulnerable to unfairly priced imports from all countries and that there is a strong correlation between unfairly priced imports and price declines experienced by the U.S. stainless steel plate industry. In that investigation, the Commission determined that important elements of the same industry under investigation in this review were being materially injured by imports.

I therefore conclude that given the high degree of substitution and the importance of price in purchasing decisions, the likely significant volume of subject imports will result in likely negative price effects to the domestic industry in the event of revocation.

E. Likely Impact of Subject Imports

When considering the likely impact of subject imports, the Commission is to consider all relevant economic factors likely to have a bearing on the state of the industry in the United States, including: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more enhanced version of the domestic like product.³⁵

Although the domestic industry has recently spent significant sums to upgrade and expand production, the industry-wide capacity utilization rate stood at only 65.1 percent in 1997 and 51.6 percent in 1998.³⁶ Despite the fact that domestic consumption increased by over 11 percent (50,000 tons) between 1997 and 1998, U.S. producers' shipments actually decreased by over 10 percent (27,500 tons).³⁷ U.S.

³² 19 U.S.C. § 1675a(a)(3).

³³ CR at II-7, PR at II-5.

³⁴ CR at V-5, PR at V-4.

³⁵ 19 U.S.C. § 1675a(a)(4).

³⁶ CR at III-1, PR at III-1.

³⁷ CR at I-5, PR at I-4.

producers' commercial unit sales values *** in 1998.³⁸ Domestic operating profits were down by 44.4 percent in 1998.³⁹

Additionally, although domestic inventories declined by 22 percent from 1997 to 1998,⁴⁰ they still remain inordinately high relative to production.⁴¹ On a unit basis, average operating profit declined by 41 percent between 1997 and 1998.⁴² During this period, the average number of production and related workers decreased 2.2 percent while hours worked decreased 6.8 percent.⁴³ Total wages paid dropped 11.5 percent and hourly wages fell 5.0 percent.⁴⁴ And, capital expenditures related to stainless steel plate declined by 59 percent between 1997 and 1998.⁴⁵

Accordingly, I conclude that given the current vulnerability of the domestic stainless steel plate industry, if the antidumping finding is revoked, likely significant volumes of subject imports would likely result in negative price effects, and thus have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

IV. CONCLUSION

Based upon the foregoing analysis, I find that revocation of the antidumping finding on stainless steel plate from Sweden would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

³⁸ CR at III-3, PR at III-2.

³⁹ CR at III-7, PR at III-5.

⁴⁰ CR at III-4, PR at III-3.

⁴¹ U.S. producers held 47,734 short tons of stainless steel plate inventory at the end of 1998, nearly 20 percent of 1998 domestic production. CR at III-4 & III-1, PR at III-3 & III-1.

⁴² CR at III-8, PR at III-6.

⁴³ CR at III-5, PR at III-4.

⁴⁴ *Id.*

⁴⁵ CR at III-13, PR at III-7.

CONCURRING VIEWS OF COMMISSIONER CAROL T. CRAWFORD

On the basis of the information contained in the record of this investigation, I find four domestic like products, hot-rolled stainless steel plate in coils, cold-rolled stainless steel plate in coils, hot-rolled stainless steel plate not in coils, and cold-rolled stainless steel plate not in coils. I determine that revocation of the antidumping finding concerning stainless steel plate from Sweden would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹ I join my colleagues in their discussion of the relevant legal standards that apply in a sunset review under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), and in certain factual recitations and conclusions concerning background matters in this review. However, I present these separate views because I do not join my colleagues in finding a single domestic like product and single domestic industry; nor do I join in my colleagues in their discussion of the relevant conditions of competition in the U.S. market.

As a preliminary matter, I note that the statute requires the Commission to determine “whether revocation of an order ... would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”² In making such determination, the statute directs the Commission to consider the likely volume, price effect, and impact of the subject imports on the domestic industry if a finding is revoked. I have considered and taken into account all of the factors required by the statute in reaching my determination. My analysis with respect to the domestic like products and the domestic industries follows first. Thereafter, I continue my analysis with a discussion of the likely effects of revocation on each of the subject industries defined therein.³

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Products

In making a determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”⁴ 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 under

¹ In analyzing what constitutes a reasonably foreseeable time, I examine all of the current and likely conditions of competition in a relevant industry. I define “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, I consider all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, my analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

² 19 U.S.C. § 1675a(a).

³ In analyzing whether revocation of a finding or order would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time, I take as my starting point the date on which the revocation would actually take place. In this review, the finding would be revoked in January 2000. 19 U.S.C. § 1675(c)(6)(iv).

⁴ 19 U.S.C. § 1677(4)(A).

this subtitle.”⁵ In its final five-year review determination, the Department of Commerce (“Commerce”) defined the subject merchandise as “stainless steel plate from Sweden.”⁶

The starting point of a like product analysis in a five-year review is the like product definition in the Commission’s original determination. Because the Antidumping Act, 1921, did not contain a “like product” provision, the Commission did not make a like product determination *per se* in its original determination. In its original determination, the Commission defined the domestic industry being injured by LTFV imports as that “consist[ing] of the facilities of domestic producers engaged in the production of stainless-steel plate.”⁷ Thus, in the context of current statutory terminology, the Commission effectively treated all stainless steel plate within the scope of the investigation as a single domestic like product.

For the purposes of this review, I find that there are four separate domestic like products, consisting of hot-rolled stainless steel plate in coils, cold-rolled stainless steel plate in coils, hot-rolled stainless steel plate not in coils, and cold-rolled stainless steel plate not in coils. In making this finding, I note that the Commission recently considered similar domestic like product issues in the antidumping/countervailing duty investigations covering certain stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan (“Coiled Plate investigations”).⁸ In the Coiled Plate investigations, completed just two months ago,⁹ the Commission refused to expand the like product of those investigations to include certain domestically produced merchandise in addition to that which had been specifically excluded from Commerce’s investigation.

Commerce’s scope in those particular investigations was defined as certain stainless steel plate in coils. The Commission specifically excluded from the domestic like product: (1) stainless steel plate not in coils; (2) stainless steel plate not annealed and pickled (*i.e.*, black plate); and, (3) stainless steel sheet, strip, and flat bars.¹⁰ An additional issue presented in the Coiled Plate investigations concerned whether hot-rolled and cold-rolled stainless steel plate in coils should be defined as separate domestic like products. On this issue, a majority of Commissioners ultimately determined that these were separate like products.

⁵ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 96-249 at 90-91 (1979).

⁶ Since the original finding, Commerce has rendered several rulings clarifying this scope definition. On July 11, 1995, Commerce determined that Stavax ESR (Stavax), UHB Ramax (Ramax), and UHB 904L (904L) when flat-rolled, are within the scope of antidumping finding. These are brand names of particular mold and mold holder stainless steel plate produced by one of the foreign interested parties discussed in this memorandum. On November 3, 1995, Commerce determined that stainless steel plate products Stavax, Ramax, and 904L when forged, are within the scope of the antidumping finding. On December 30, 1997 Commerce determined that merchandise rolled into hot bands in Sweden from British slabs is subject to the finding. 63 Fed. Reg. 67658 (Dec. 8, 1998).

⁷ Stainless Steel Plate from Sweden, Inv. No. AA1921-114, TC Pub. 573, May 1973 at 3 n.1.

⁸ Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, Korea, South Africa, and Taiwan, Inv. Nos. 701-TA-376-379 (Preliminary) and 731-TA-788-793 (Preliminary), USITC Pub. 3107, May 1998 (“Coiled Plate Preliminary”); Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, Korea, South Africa, and Taiwan, Inv. Nos. 701-TA-376, 377 & 379 (Final) and 731-TA-788-793 (Final), USITC Pub. 3188, May 1999 (“Coiled Plate Final”).

⁹ Coiled Plate Preliminary at 4-15; Coiled Plate Final at 4-7.

¹⁰ Coiled Plate Preliminary at 5-10; Coiled Plate Final at 4, n.11.

Accordingly, the Commission found two domestic like products in the Coiled Plate investigations, certain hot-rolled stainless steel plate in coils (“HRAP plate”), and certain cold-rolled stainless steel plate in coils.¹¹

While the domestic like product definition of an earlier investigation may not be dispositive in subsequent proceedings, I find that significant similarities between the domestic like product issues presented in this review and in the recent Coiled Plate investigations, as well as the particular facts of these two proceedings, support a finding of more than one domestic like product. Moreover, I note that the Commission has specifically preserved the ability to revisit its original domestic like product and domestic industry determinations in sunset reviews. In the Notice of Final Rulemaking for sunset reviews, the Commission indicated that “the Commission may revisit its like product determination when there have been significant changes in the products at issue since the original investigation or when domestic like product definitions differed for individual orders within a group concerning similar products.”¹²

In light of the intervening 26 years since the Commission’s original finding and the recent Coiled Plate investigations, I find that the particular facts and circumstances of this review warrant reconsideration of the Commission’s original like product determination. Thus, my analysis of the domestic like product issues presented by this review begins with a consideration of the Commission’s recent decision in the Coiled Plate investigations. From this point, the like product issues are addressed by initially making a demand-side distinction between stainless steel plate in coils and stainless steel plate not in coils. I draw a further distinction between hot-rolled and cold-rolled like products within the previously cited like product categories. The remaining like product issues identified and argued by the parties to this review then fit within this framework. Thus, I find that both stainless steel black plate and stainless steel mold and mold holder plate are not separate domestic like products, but are simply subgroups within a continuum of stainless steel plate products.

1. Stainless Steel Plate in Coils and Stainless Steel Plate not in Coils are Separate Like Product Categories

In the preliminary phase of the Coiled Plate investigations, the Commission recognized that stainless steel plate not in coils consists of two distinct products, piece plate¹³ and cut-to-length plate (the latter of which is a downstream product produced from coiled plate that is decoiled and cut into pieces). The Commission excluded cut-to-length plate from the domestic like product, citing Commerce’s explicit exclusion of plate not in coils from the scope of the investigation, as well as the Commission’s traditional practice of not including downstream articles, such as cut-to-length plate, in the domestic like product when the downstream imported product (*i.e.*, cut-to-length plate) corresponding to the downstream domestic product is not within the scope of the investigation.¹⁴ The Commission then analyzed the other stainless steel plate product not in coils (*i.e.*, piece plate) on the basis of its traditional like product factors. While the Commission found some overlap and similarity between coiled plate and piece plate, the Commission also excluded piece plate from the domestic like product.¹⁵

¹¹ Coiled Plate Final at 3-8.

¹² 63 Fed. Reg. 30599, 30602 (June 5, 1998).

¹³ Piece plate is also routinely referred to as discrete plate, plate mill plate, or flat plate. *See* Coiled Plate Preliminary at 5.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 5-8. “While coiled plate and discrete plate [*i.e.*, piece plate] generally share some common product
(continued...) ”

The Commission also found that neither cut-to-length plate nor piece plate was included in the domestic like product of coiled plate, although it did not explicitly evaluate whether cut-to-length plate and piece plate comprised a single like product. However, some guidance in this area is provided by the Commission's decision in *Cut-to-Length Carbon Steel Plate from China, Russia, South Africa and Ukraine*, Inv. Nos. 731-753-756 (Final) (Dec. 1997). In those investigations, the Commission determined that "plate that is coiled and decoiled during its production process ... and CTL [*i.e.*, cut-to-length] plate produced on a reversing mill (and therefore never coiled and decoiled)" are part of the same domestic like product."¹⁶

While the like product and scope definitions in those particular investigations differ from this review, those investigations clearly show that the Commission has previously found one domestic like product consisting of cut-to-length plate products regardless of the manufacturing process. Moreover, the unique facts of this particular review and the weight of the available evidences suggests that non-coiled stainless steel plate should be treated as a domestic like product separate and distinct from coiled stainless steel plate.

In this regard, both parties argue that all non-coiled stainless steel plate should be considered a separate like product and that this particular domestic like product should include both piece and cut-to-length plate. Moreover, the record in those investigations reveals that there are relatively significant differences between the two products because piece plate is generally produced in wider and thicker dimensions than coiled plate.¹⁷ The record also indicates that the overall interchangeability of the products is limited by these dimensional and other differences.¹⁸ In addition, coiled and non-coiled stainless steel plate do not share common manufacturing facilities following the initial melt stage of the production process and there are relatively significant price differentials between the two products.¹⁹

¹⁵ (...continued)

qualities, physical characteristics and end-uses, and similar channels of distribution, there are limits to interchangeability, a general perception by producers that they are separate products, and there are no common production facilities at the hot-rolling stage. There also is some evidence that discrete plate [*i.e.*, piece plate] is more expensive than comparable coiled plate. We do not include discrete plate in the domestic like product." *Id.* at 8.

¹⁶ *Id.* at 6-7. The Commission continued to treat all plate not in coiled form as a single like product, separate and distinct from coiled plate, in its April 1999 investigations on coiled plate. See Certain Cut-to-Length Steel Plate From the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392 (Preliminary) and 731-TA-815-822 (Preliminary), USITC Pub. No. 3181, April 1999 at 5, 7.

¹⁷ For example, stainless steel coiled plate is shipped in a continuous coil form while stainless steel piece plate not in coils is a flat form that cannot be used in applications requiring a coiled product. CR at I-24-25; PR at I-16. Thus, although both forms are produced as wide as 96 inches and as thick as 0.5 inch, stainless steel plate not in coils is generally produced in wider and thicker dimensions than coiled plate. CR at I-23; PR at I-15.

¹⁸ For example, a major market for stainless steel plate in the coiled form is in the production of stainless steel tubing. CR at I-14; PR at I-10.

¹⁹ Generally speaking, although both forms of stainless steel plate can be produced using a Steckel mill, most stainless steel coiled plate and stainless steel plate not in coils is produced on production lines dedicated to the production of one of these two forms of plate. See Coiled Plate Preliminary at 8. In this regard, both products are not produced at the same facilities, even for those U.S. producers who produced both forms of plate during the period of investigation. CR at I-26-32; PR at I-17-21.

Given the clear dividing line between coiled plate and plate not in coils, and the existing Commission precedent, I find separate like products for these two forms of stainless steel plate in this review.

2. Hot-Rolled Stainless Steel Plate and Cold-Rolled Stainless Steel Plate are Separate Like Product Categories

As previously stated, the scope of Commerce's investigations is broader than the scope of the investigations in the Coiled Plate investigations, which covered only imports of coiled stainless steel plate. Nonetheless, in those investigations the Commission concluded that a clear dividing line existed between certain hot-rolled stainless steel plate in coils, and certain cold-rolled stainless steel plate in coils.²⁰ Based upon the analysis therein, and given the fact that the Commission found such a clear dividing line between hot-rolled plate and cold-rolled plate in the Coiled Plate investigations less than two months ago, the like product distinction drawn between these two products is well-settled.²¹ Therefore, within stainless steel plate in coils and stainless steel plate not in coils like product categories defined above, I find that hot-rolled stainless steel plate and cold-rolled stainless steel plate warrant separate like product treatment in this review.

3. Mold and Mold Holder Stainless Steel Plate is not a Separate Domestic Like Product Category

I concur with my colleagues in their finding that the available evidence indicates that mold and mold holder products are simply one subgroup of stainless steel plate products within a continuum of stainless steel plate products that are produced in a wide variety of grades, specifications, shapes and sizes. In this regard, the majority has correctly pointed out that mold and mold holder stainless steel plate are sold in similar channels of distribution as other forms of stainless steel plate, are produced in the same facilities by domestic producers as other forms of stainless steel plate, and have reasonably similar prices as other forms of stainless steel plate. Therefore, I find that mold and mold holder stainless steel plate are not sufficiently distinct from other forms of stainless steel plate to warrant a separate domestic like product definition.

In light of the foregoing discussion, mold and mold holder stainless steel plate are most appropriately a form of piece plate.²² Accordingly, because I find that piece plate is part of the domestic like product consisting of stainless steel plate not in coils and because there is no domestic production of

²⁰ "Overall, because cold-rolled plate differs somewhat from HRAP plate in surface finish and dimensional tolerances, resulting in limited interchangeability and different end uses; cold-rolling involves substantial additional processing steps that are performed on separate lines using separate production workers; producers and customers perceive HRAP plate and cold-rolled coiled plate to be separate products and request cold-rolled plate specifically when placing orders; and cold-rolled plate commands a price premium, we find there to be a clear dividing line between HRAP plate and cold-rolled plate. Accordingly, we find two domestic like products in these investigations, certain hot-rolled stainless steel plate in coils (HRAP plate), and certain cold-rolled stainless steel plate in coils (cold-rolled plate)." Coiled Plate Final at 7.

²¹ I incorporate by reference the discussion and conclusions drawn in the Coiled Plate Preliminary and Coiled Plate Final opinions, and the related staff reports.

²² The record shows that domestically produced mold and mold-holder product shares the same production processes and facilities as other flat-rolled and piece plate products. CR at I-27; PR at 18. Tr. at 20.

cold-rolled stainless steel plate not in coils,²³ I find that mold and mold hold stainless steel plate are a part of the domestic industry consisting of hot-rolled stainless steel plate not in coils.

4. Stainless Steel Black Plate is not a Separate Domestic Like Product Category

In the preliminary phase of the Coiled Plate investigations determination, the Commission applied a semifinished product analysis and determined that there were significant “differences between the markets, physical characteristics, functions and values” of stainless steel black plate and stainless steel plate in coils.²⁴

Yet, applying the same analysis in the instant investigations, and considering the broader scope of this review and all of the facts available on this record, I find that the weight of the available evidence indicates that black plate should not be treated as a separate domestic like product. First, the record in this review reveals that black plate is largely dedicated to the production of finished stainless steel plate products. In fact, almost all black plate is captively consumed for such purposes.²⁵ Moreover, while the products exhibit some physical differences, they share the same basic chemical characteristics as finished plate products. Additionally, black plate accounts for a significant portion of the overall value of finished stainless steel products.²⁶ Given these considerations, I conclude that black plate is part of the same domestic like product as (and is subsumed by) the finished forms of stainless steel plate in coils and stainless steel plate not in coils. In this regard, I further note that the great majority of black plate is consumed in the production of hot-rolled plate in coils.²⁷

B. Domestic Industries

Having found four like products, I find four domestic industries, the industry producing hot-rolled stainless steel plate in coils, the industry producing cold-rolled stainless steel plate in coils, the industry producing hot-rolled stainless steel plate not in coils, and the industry producing cold-rolled stainless steel plate not in coils. In defining the domestic industries in this review, I have also considered whether any producers of the domestic like products should be excluded from a particular domestic industry pursuant to the related parties provision in section 771(4)(B) of the Act. As discussed in the majority opinion, one domestic producer, Avesta Sheffield NAD, Inc. (ASNAD), is a related party in this review because it is owned by the Swedish stainless steel plate producer, Avesta Sheffield AB.²⁸ ASNAD also imported subject merchandise in 1997 and 1998.²⁹

Considering all of the available information in the record, I concur with my colleagues in their finding that appropriate circumstances do not exist in these investigations to exclude ASNAD from any domestic industry.

²³ CR and PR at Table E-1.

²⁴ Coiled Plate Preliminary at 10.

²⁵ CR at I-12-13; Coiled Plate Preliminary at 9. Approximately *** percent of black plate is captively consumed. Final Comments of Avesta Sheffield NAD, Inc. and Avesta Sheffield AB at 3.

²⁶ See Coiled Plate Preliminary at 9.

²⁷ CR and PR at Table E-1.

²⁸ CR at I-28, 32; PR at I-19, I-21

²⁹ CR at I-32; PR at I-21

II. REVOCATION OF THE FINDING ON STAINLESS STEEL PLATE FROM SWEDEN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME FOR THE DOMESTIC INDUSTRY PRODUCING HOT-ROLLED STAINLESS STEEL PLATE IN COILS

The appropriate legal standard for sunset reviews is correctly set forth in the majority opinion. Therefore, I adopt and incorporate from the majority opinion my colleagues' recitation and discussion of the Act as it pertains to this review. Because the statute requires the Commission to consider the volume of subject imports, their effect on domestic prices, and their impact on the domestic industry, I consider each requirement in turn and in the context of the conditions of competition distinctive to the domestic industry producing hot-rolled stainless steel plate in coils.

A. Conditions of Competition

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of the dumping. This environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market.

In evaluating the likely impact of the subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."³⁰ In performing my analysis under the statute, I have taken into account the following conditions of competition in the U.S. market.

Domestic demand for all categories of stainless steel plate market has been growing at a healthy rate in recent years and is expected to continue to grow at similar rates during the reasonably foreseeable future. In the current investigation, both importers and domestic producers reported that demand for all stainless steel plate has increased during the past several years at a rate between three to six percent a year.³¹ Apparent U.S. consumption of all categories of stainless steel plate was nearly thirteen percent greater in 1998 than it was in 1997.³² Importers and producers both report that demand for stainless steel plate should continue to grow at a rate of three to five percent per year in the near future.³³ Demand in the U.S. market has reportedly increased in recent years as purchasers of all categories of stainless steel plate seek the longer life-cycle, environmental and process benefits of stainless steel plate in the production and marketing of their end products.³⁴ During the period covered by the original investigation, however, demand was relatively stable, with apparent consumption fluctuating somewhat but consistently remaining

³⁰ 19 U.S.C. § 1675a(a)(4).

³¹ CR at II-4, PR at II-3.

³² Apparent U.S. consumption for all categories of stainless steel plate was approximately 383 thousand tons in 1997 and 434 thousand tons in 1998. CR and PR at Table I-4.

³³ CR at II-4, PR at II-3.

³⁴ CR at II-4, PR at II-3; *see also* Tr. at 180-8.

between 68 thousand and 98 thousand tons during the eight years prior to the Commission's determination.³⁵

In addition, Swedish production capacity for hot-rolled stainless steel plate in coils rose from 1997 to 1998 and outpaced increases in actual production. This situation resulted in a drop in capacity utilization of *** percentage points. In 1998, Swedish capacity utilization for hot-rolled stainless steel plate in coils was *** percent. End-of-period inventories decreased and were relatively insubstantial when compared to production and shipments.³⁶

Over the period of investigation, Swedish exports of hot-rolled stainless steel plate in coils to the United States declined and accounted for no more than *** percent of total U.S. shipments.³⁷ Meanwhile, demand for all categories of stainless steel plate in the European market has been growing at a substantial rate in recent years and is expected to grow at a substantial rate in the near future.³⁸ Thus, Swedish exports of hot-rolled stainless steel plate in coils to other markets grew by *** percent and accounted for about *** percent of total Swedish shipments in 1998.³⁹ Nearly all of ASNAD's commercial shipments were made to the European market in 1997-98.⁴⁰ According to the record, all categories of exports of stainless steel plate from Sweden are free from tariffs or nontariff barriers in countries other than the United States.⁴¹

The record also demonstrates that the cost share for this product relative to the production cost of end-use products varies, but tends to be moderate.⁴² This moderate cost share would indicate a higher elasticity of demand. More importantly, however, the record also reveals that there simply are no reasonable alternative products for this product. Although nickel alloy plate may be used as an alternative product in certain applications,⁴³ performance requirements nearly always dictate the use of this product because of its unique physical characteristics and corrosion resistance.⁴⁴ The limited availability of substitute products reduces the elasticity of demand. Therefore, because the cost share in downstream products is likely to be moderate and there is only limited availability of substitute products, I find that the overall elasticity of demand for this product is relatively low.

Although price is an important factor in purchasing decisions associated with this product, the selection of domestic, subject, and nonsubject imported products depends quite heavily on issues involving

³⁵ Original Staff Report, dated April 1973, at 19.

³⁶ CR and PR at Table IV-6. The data presented in Table IV-6 are the closest approximation available for the Swedish industry producing hot-rolled stainless steel plate in coils. This data includes cut-to-length plate (of which there is minimal Swedish production) and appears to exclude black plate.

³⁷ CR and PR at Table E-1 (grouping the data for black coiled plate, HRAP coiled plate and all other Swedish stainless steel plate not accounted for by the three remaining like products herein).

³⁸ Pre-Hearing Brief of Avesta Sheffield NAD, Inc. and Avesta Sheffield AB at Attachment, Affidavit of Peter Gossas, ¶¶4-8; Tr. at 118-19.

³⁹ CR and PR at Table IV-6.

⁴⁰ CR at II-3; PR at II-2.

⁴¹ CR at IV-7; PR at IV-5.

⁴² CR at II-5; PR at II-3.

⁴³ CR at II-6; PR at II-4.

⁴⁴ CR at II-4 and II-6; PR at II-3 and II-4.

quality and product availability.⁴⁵ Yet, there also appears to be evidence of substitutability between and among subject imports, nonsubject imports, and U.S.-produced stainless steel plate products. Factors that tend to enhance such substitutability include the fact that subject and nonsubject merchandise is viewed as interchangeable in its uses, and the fact that most purchasers found subject imports to be similar to domestic merchandise with regard to their specific requirements. Nevertheless, some U.S. producers and purchasers have reported that subject imports are superior to the domestic product in relation to availability, delivery time, price, reliability, and transportation network.⁴⁶ Moreover, the level of substitutability is limited by the fact that imports of subject merchandise from Sweden tend to be used in more specialized applications.⁴⁷ The record also reveals that Swedish producers generally produce stainless steel plate in coils in wider dimensions than the domestic producers;⁴⁸ that they produce more specialty products than the domestic producers;⁴⁹ and that they have been concentrating more of their production on cold-rolled merchandise,⁵⁰ a product produced in minimal amounts by the domestic industry.⁵¹ These facts indicate a much lower elasticity of substitutability between domestic merchandise and subject imports. Overall, because the imports of subject merchandise from Sweden appear to fill specific customer and product requirements, I find the level of substitutability between domestic and subject imports is relatively low.

Finally, in recent years non-subject imports have captured a relatively significant share of the stainless steel plate in coils categories of the U.S. market. However, Commerce recently issued antidumping/countervailing duty orders covering the large majority of imports of hot-rolled stainless steel plate in coils following the Commission's affirmative determinations in the Coiled Plate investigations.⁵² I have taken these orders and their likely effects on non-subject imports into consideration as a further condition of competition in this market.

Based on the record evidence, I find that these conditions of competition in the market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in this review, I find that current conditions in the market provide a reasonable basis from which to assess the likely effects of revocation of the antidumping finding within the reasonably foreseeable future.

B. Volume of the Subject Imports

The volume of subject imports fell from *** short tons in 1997 to *** short tons in 1998. In 1997, subject imports held a market share of *** percent. In 1998, subject market share was *** percent. The record in this review also reveals that much of this decrease may be explained by ASNAD's decision to permanently close and sell its production facility in Baltimore, which had been importing stainless steel

⁴⁵ CR and PR at Table II-1.

⁴⁶ CR at II-7; PR at II-4.

⁴⁷ CR at II-9; PR at II-6.

⁴⁸ AB at Attachment, Gossas Declaration, ¶12; Tr. at 117, 122 & 166.

⁴⁹ Tr. at 117.

⁵⁰ Compare CR and PR at Table IV-7 with CR and PR at Table IV-6; AB at Attachment, Gossas Declaration, ¶¶4-12.

⁵¹ CR and PR at Tables C-3, C-5 & E-1.

⁵² 64 Fed. Reg. 25,288 (May 11, 1999) and 64 Fed. Reg. 27,756 (May 21, 1999).

black plate in wider widths that were unavailable elsewhere on the U.S. market. By comparison, nonsubject imports were *** short tons and accounted for *** percent of the domestic market in 1998.⁵³

While it is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry, whether the volume is significant cannot be determined in a vacuum, but must be evaluated in the context of their price effects and impact. Based on the market share of the subject imports, the conditions of competition in the U.S. market including the recently issued antidumping/countervailing duty orders covering the large majority of imports of hot-rolled stainless steel plate in coils, and the lack of significant price effects or impact on the domestic industry as discussed below, I find that the likely volume of these subject imports from Sweden would not be significant if the finding is revoked within a reasonably foreseeable time.

C. Price Effects of the Subject Imports

To determine the effect of subject imports on domestic prices following a revocation of an existing finding, I evaluate whether domestic prices would be likely to decrease if the finding is revoked. As previously discussed, demand for this product is relatively inelastic. Thus, lowering its price likely would not result in significant increases in its demand. In addition, because the evidence indicates that subject and domestic merchandise are poor substitutes, changes in the relative price of subject imports likely not lead to a significant shift in demand away from domestic merchandise. Since there likely would be no shift in demand away from the domestic product if the finding is revoked, revocation of the finding would have no effect on domestic prices. Consequently, I find that the subject imports are not likely to have significant effects on domestic prices if the finding is revoked.

D. Impact of the Subject Imports

To assess the likely impact of the subject imports on the domestic industry, I consider all of the relevant economic factors. I evaluate the effect on domestic prices, sales, and overall revenues that is likely to occur if the finding is revoked. Understanding the impact of revocation on the domestic industry's prices, sales, and overall revenues is critical, because the impact on the other industry indicators (*e.g.* employment, wages, *etc.*) is derived from the impact on the domestic industry's prices, sales, and revenues. These factors together either encompass or reflect the volume and price effects of the subject imports, and so I gauge the impact of the revocation of the finding through these effects.

As discussed above, revocation of the finding is not likely to lead to a shift in demand toward the subject imports. Therefore, revocation of the finding would not cause a shift in demand away from the domestic product. Absent a shift in demand away from the domestic product, there likely would be no effect on the domestic industry's output, sales, and overall revenues. Consequently, revocation of the finding is not likely to have a significant impact on the domestic industry.⁵⁴

⁵³ CR and PR at Table E-1 (grouping the data for black coiled plate, HRAP coiled plate and all other Swedish stainless steel plate not accounted for by the three remaining like products herein).

⁵⁴ The statute also directs the Commission to take into account several general considerations. 19 U.S.C. § 1675a(a)(1). The Commission is to consider its prior injury determinations, whether any improvement in the state of the industry is related to the order or finding, whether the industry is vulnerable to material injury in the event of revocation, and whether any duty absorption finding is made by the Department of Commerce. *Id.* Commerce made no duty absorption finding in this case. 63 Fed. Reg. at 63,706 (Nov. 16, 1998). Based on the facts available
(continued...)

E. Conclusion

Based on the foregoing analysis, I find that revocation of the finding is not likely to have significant effects on domestic prices or a significant impact on the domestic industry. Consequently, I determine that revocation of the finding on stainless steel plate from Sweden is not likely to lead to continuation or recurrence of material injury to the domestic industry producing hot-rolled stainless steel plate in coils within a reasonably foreseeable time.

III. REVOCATION OF THE FINDING ON STAINLESS STEEL PLATE FROM SWEDEN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME FOR THE DOMESTIC INDUSTRY PRODUCING HOT-ROLLED STAINLESS STEEL PLATE NOT IN COILS

The appropriate legal standard for sunset reviews is correctly set forth in the majority opinion. Therefore, I adopt and incorporate from the majority opinion my colleagues' recitation and discussion of the Act as it pertains to this review. Because the statute requires the Commission to consider the volume of subject imports, their effect on domestic prices, and their impact on the domestic industry, I consider each requirement in turn and in the context of the conditions of competition distinctive to the domestic industry producing hot-rolled stainless steel plate not in coils.

A. Conditions of Competition

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of the dumping. This environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market.

In evaluating the likely impact of the subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."⁵⁵ In performing my analysis under the statute, I have taken into account the following conditions of competition in the U.S. market.

⁵⁴ (...continued)

in this review, the record indicates that the domestic industry has improved its position in the U.S. market since the issuance of the finding. Although such improvement has come about while the finding has been in effect, it does not automatically or necessarily follow that revocation of the finding will result in the continuation or recurrence of material injury within the reasonably foreseeable future. Moreover, although the record of the Coiled Plate investigations suggests that the domestic industry is vulnerable, the recent order on coiled plate imports from six countries is an important change in the market that should provide substantial protection to the domestic industry and will have a significant impact on market prices and market conditions. In addition, I find that the magnitude of any adverse effects of revocation is likely to increase with the degree of vulnerability of the domestic industry. Based on the industry's current performance as reflected in the record, and considering the recent order on coiled plate imports, I conclude that the domestic industry is not particularly vulnerable to material injury if the finding is revoked.

⁵⁵ 19 U.S.C. § 1675a(a)(4).

As stated in the majority opinion, domestic demand for all categories of stainless steel plate market has been growing at a healthy rate in recent years and is expected to continue to grow at similar rates during the reasonably foreseeable future. In the current investigation, both importers and domestic producers reported that demand for all stainless steel plate has increased during the past several years at a rate between three to six percent a year.⁵⁶ Apparent U.S. consumption of all stainless steel plate was nearly thirteen percent greater in 1998 than it was in 1997.⁵⁷ Importers and producers both report that demand for stainless steel plate should continue to grow at a rate of three to five percent per year in the near future.⁵⁸ Demand in the U.S. market has reportedly increased in recent years as purchasers of all categories of stainless steel plate seek the longer life-cycle, environmental and process benefits of stainless steel plate in the production and marketing of their end products.⁵⁹ During the period covered by the original investigation, however, demand was relatively stable, with apparent consumption fluctuating somewhat but consistently remaining between 68 thousand and 98 thousand tons during the eight years prior to the Commission's determination.⁶⁰

In addition, Swedish production capacity for hot-rolled stainless steel plate not in coils rose significantly from 1997 to 1998 while actual production decreased. This situation resulted in a drop in capacity utilization of *** percentage points. In 1998, Swedish capacity utilization for hot-rolled stainless steel plate not in coils was *** percent. End-of-period inventories decreased but were relatively substantial when compared to production and shipments.⁶¹

Over the period of investigation, Swedish exports of hot-rolled stainless steel plate not in coils to the United States were steady and accounted for *** percent of total shipments in each year of the period of investigation.⁶² Meanwhile, demand for all categories of stainless steel plate in the European market has been growing at a substantial rate in recent years and is expected to grow at a substantial rate in the near future.⁶³ Thus, Swedish exports of hot-rolled stainless steel plate not in coils to other markets grew by *** percent and accounted for about *** percent of total Swedish shipments in 1998.⁶⁴ Nearly all of ASNAD's commercial shipments were made to the European market in 1997-98.⁶⁵ According to the record, all

⁵⁶ CR at II-4, PR at II-3.

⁵⁷ Apparent U.S. consumption for all categories of stainless steel plate was approximately 383 thousand tons in 1997 and 434 thousand tons in 1998. CR and PR at Table I-4.

⁵⁸ CR at II-4, PR at II-3.

⁵⁹ CR at II-4, PR at II-3; *see also* Tr. at 180-81.

⁶⁰ Original Staff Report, dated April 1973, at 19.

⁶¹ CR at and PR at Table IV-8. The data presented in Table IV-8 are the closest approximation available for the Swedish industry producing hot-rolled stainless steel plate not in coils. I further note that as presented in the discussion of the domestic like product, there is only an insignificant amount of cold-rolled stainless steel plate not in coils produced in Sweden.

⁶² CR and PR at Table E-1 (grouping the data for HRAP cut-to-length plate, HRAP piece plate, black cut-to-length plate, black piece plate, and mold and mold holder plate).

⁶³ Pre-Hearing Brief of Avesta Sheffield NAD, Inc. and Avesta Sheffield AB at Attachment, Affidavit of Peter Gossas, ¶¶4-8; Tr. at 118-19.

⁶⁴ CR and PR at Table IV-8.

⁶⁵ CR at II-3; PR at II-2.

categories of exports of stainless steel plate from Sweden are free from tariffs or nontariff barriers in countries other than the United States.⁶⁶

The record also demonstrates that the cost share for this product relative to the production cost of end-use products varies, but tends to be moderate.⁶⁷ This moderate cost share would indicate a higher elasticity of demand. More importantly, however, the record also reveals that there simply are no reasonable alternative products for this product. Although nickel alloy plate may be used as an alternative product in certain applications,⁶⁸ performance requirements nearly always dictate the use of this product because of its unique physical characteristics and corrosion resistance.⁶⁹ The limited availability of substitute products reduces the elasticity of demand. Therefore, because the cost share in downstream products is likely to be moderate and there is only limited availability of substitute products, I find that the overall elasticity of demand for this product is relatively low.

Although price is an important factor in purchasing decisions associated with this product, the selection of domestic, subject, and nonsubject imported products depends quite heavily on issues involving quality and product availability.⁷⁰ Yet, there also appears to be evidence of substitutability between and among subject imports, nonsubject imports, and U.S.-produced stainless steel plate products. Factors that tend to enhance such substitutability include the fact that subject and nonsubject merchandise is viewed as interchangeable in its uses, and the fact that most purchasers found subject imports to be similar to domestic merchandise with regard to their specific requirements. Nevertheless, some U.S. producers and purchasers have reported that subject imports are superior to the domestic product in relation to availability, delivery time, price, reliability, and transportation network.⁷¹ Moreover, the level of substitutability is limited by the fact that imports of subject merchandise from Sweden tend to be used in more specialized applications.⁷² The record also reveals that Swedish producers generally produce stainless steel plate in coils in wider dimensions than the domestic producers;⁷³ that they produce more specialty products than the domestic producers;⁷⁴ and that they have been concentrating more of their production on cold-rolled merchandise,⁷⁵ a product produced in minimal amounts by the domestic industry.⁷⁶ These facts indicate a much lower elasticity of substitutability between domestic merchandise and subject imports. Overall, because the imports of subject merchandise from Sweden appear to fill specific customer and product requirements, I find the level of substitutability between domestic and subject imports is relatively low.

⁶⁶ CR at IV-7; PR at IV-5

⁶⁷ CR at II-5; PR at II-3.

⁶⁸ CR at II-6; PR at II-4.

⁶⁹ CR at II-4 and II-6; PR at II-3 and II-4.

⁷⁰ CR and PR at Table II-1.

⁷¹ CR at II-7; PR at II-4.

⁷² CR at II-9; PR at II-6.

⁷³ AB at Attachment, Gossas Declaration, ¶12; Tr. at 117, 122 & 166.

⁷⁴ Tr. at 117.

⁷⁵ Compare CR and PR at Table IV-7 with CR and PR at Table IV-6; AB at Attachment, Gossas Declaration, ¶¶4-12.

⁷⁶ CR and PR at Tables C-3, C-5 & E-1.

Based on the record evidence, I find that these conditions of competition in market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in this review, I find that current conditions in the market provide a reasonable basis from which to assess the likely effects of revocation of the antidumping finding within the reasonably foreseeable future.

B. Volume of the Subject Imports

Subject imports of hot-rolled stainless steel plate not in coils remained relatively constant over the period of investigation at *** short tons in 1997 and *** short tons in 1998. In both 1997 and 1998, subject market share was *** percent. By comparison, nonsubject imports were *** short tons and accounted for *** percent of the domestic market in 1998. The domestic industry accounts for the remaining *** percent of the domestic market.⁷⁷

While it is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry, whether the volume is significant cannot be determined in a vacuum, but must be evaluated in the context of their price effects and impact. Based on the market share of the subject imports, the conditions of competition in the U.S. market, and the lack of significant price effects or impact on the domestic industry as discussed below, I find that the likely volume of subject these imports from Sweden would not be significant if the finding is revoked within a reasonably foreseeable time.

C. Price Effects of the Subject Imports

To determine the effect of subject imports on domestic prices following a revocation of an existing finding, I evaluate whether domestic prices would be likely to decrease if the finding is revoked. As previously discussed, demand for this product is relatively inelastic. Thus, lowering its price likely would not result in significant increases in its demand. In addition, because the evidence indicates that subject and domestic merchandise are poor substitutes, changes in the relative price of subject imports likely would not lead to a significant shift in demand away from domestic merchandise. Since there likely would be no shift in demand away from the domestic product if the finding is revoked, revocation of the finding would have no effect on domestic prices. Consequently, I find that the subject imports are not likely to have significant effects on domestic prices if the finding is revoked.

⁷⁷ CR and PR at Table E-1 (grouping the data for HRAP cut-to-length plate, HRAP piece plate, black cut-to-length plate, black piece plate, and mold and mold holder plate).

D. Impact of the Subject Imports

To assess the likely impact of the subject imports on the domestic industry, I consider all of the relevant economic factors. I evaluate the effect on domestic prices, sales, and overall revenues that is likely to occur if a finding is revoked. Understanding the impact of revocation on the domestic industry's prices, sales, and overall revenues is critical, because the impact on the other industry indicators (e.g. employment, wages, etc.) is derived from the impact on the domestic industry's prices, sales, and revenues. These factors together either encompass or reflect the volume and price effects of the subject imports, and so I gauge the impact of the revocation of the finding through these effects.

As discussed above, revocation of the finding is not likely to lead to a shift in demand toward subject imports. Therefore, revocation of the finding would not cause a shift in demand away from the domestic product. Absent a shift in demand away from the domestic product, there likely would be no effect on the domestic industry's output, sales, and overall revenues. Consequently, revocation of the finding is not likely to have a significant impact on the domestic industry within a reasonably foreseeable time.⁷⁸

E. Conclusion

Based on the foregoing analysis, I find that revocation of the finding is not likely to have significant effects on domestic prices or a significant impact on the domestic industry. Consequently, I determine that revocation of the finding on stainless steel plate from Sweden is not likely to lead to continuation or recurrence of material injury to the domestic industry producing hot-rolled stainless steel plate not in coils within a reasonably foreseeable time.

IV. REVOCATION OF THE FINDING ON STAINLESS STEEL PLATE FROM SWEDEN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME FOR THE DOMESTIC INDUSTRY PRODUCING COLD-ROLLED STAINLESS STEEL PLATE IN COILS

As in the recent Coiled Plate investigations, the facts available in this review demonstrate that there was minimal domestic production of cold-rolled stainless steel plate in coils in 1997-98.⁷⁹ Additionally, in the Coiled Plate investigations the Commission made a negative injury determination with respect to

⁷⁸ The statute also directs the Commission to take into account several general considerations. 19 U.S.C. § 1675a(a)(1). The Commission is to consider its prior injury determinations, whether any improvement in the state of the industry is related to the order or finding, whether the industry is vulnerable to material injury in the event of revocation, and whether any duty absorption finding is made by the Department of Commerce. *Id.* Commerce made no duty absorption finding in this case. 63 Fed. Reg. at 63,706 (Nov. 16, 1998). Based on the facts available in this review, the record indicates that the domestic industry has improved its position in the U.S. market since the issuance of the finding. Although such improvement has come about while the finding has been in effect, it does not automatically or necessarily follow that revocation of the finding will result in the continuation or recurrence of material injury within the reasonably foreseeable future. In addition, I find that the magnitude of any adverse effects of revocation is likely to increase with the degree of vulnerability of the domestic industry. Based on the industry's current performance as reflected in the record, I conclude that the domestic industry is not particularly vulnerable to material injury if the finding is revoked.

⁷⁹ CR and PR at Table E-1.

imports of cold-rolled plate where the volumes of such imports from the countries under investigation were far greater than the volumes of such imports from Sweden in this review.

Therefore, in the absence of the existing finding, I find that there likely would be no continuation or recurrence of material injury because there likely would be no shift in demand away from domestic production. In addition, there likely would be no shift in demand to other domestic stainless steel products because those products are not good substitutes for cold-rolled stainless steel plate in coils. Absent an increase in demand for domestic cold-rolled stainless steel plate in coils, the domestic industry would not be able to increase its prices, output, sales, or revenues. Therefore, there likely would not be a continuation or recurrence of material injury by reason of subject imports of cold-rolled stainless steel plate in coils from Sweden.

Regardless of the volumes and prices of subject imports of cold-rolled stainless steel plate in coils that may be imported in the U.S. market in the absence of the existing finding, the fact that there is minimal domestic production of this merchandise means that none of the sales in the reasonably foreseeable future would be captured by the domestic industry. Thus, a revocation of the existing duties on these subject imports will not have a material effect on the domestic industry. Consequently, I determine that revocation of the finding on stainless steel plate from Sweden is not likely to lead to continuation or recurrence of material injury to the domestic industry producing cold-rolled stainless steel plate in coils within a reasonably foreseeable time.

V. REVOCATION OF THE FINDING ON STAINLESS STEEL PLATE FROM SWEDEN IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME FOR THE DOMESTIC INDUSTRY PRODUCING COLD-ROLLED STAINLESS STEEL PLATE NOT IN COILS

Through the 1997-98 period of review, there was no domestic production of cold-rolled stainless steel plate not in coils. There also were no imports of subject cold-rolled stainless steel plate not in coils in 1998 and only *** short tons in 1997.⁸⁰ Thus, while there is no domestic industry producing the like product in this particular category of stainless steel plate, the statute requires the Commission to examine the product that is most similar to this like product. The product that is arguably the most similar to cold-rolled stainless steel plate not in coils is hot-rolled stainless steel plate not in coils.⁸¹

Therefore, the analysis of the domestic industry producing hot-rolled stainless steel plate not in coils serves as a proxy for the domestic industry producing cold-rolled stainless steel plate not in coils. Given my conclusion regarding the domestic industry producing hot-rolled stainless steel plate not in coils provided above, and there likely would not be a continuation or recurrence of material injury by reason of subject imports of cold-rolled stainless steel plate not in coils for the reasons stated therein. Consequently, I determine that revocation of the finding on stainless steel plate from Sweden is not likely to lead to continuation or recurrence of material injury to the domestic industry producing cold-rolled stainless steel plate not in coils within a reasonably foreseeable time.

⁸⁰ CR and PR at Table E-1.

⁸¹ One could also conclude that cold-rolled stainless steel plate in coils is the domestic like product most similar to cold-rolled stainless steel plate not in coils. In such a case, as previously stated, there likely would be no continuation or recurrence of material injury in the absence of the existing finding because there likely would be no shift in demand away from domestic production.