

UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN SEAMLESS CARBON AND ALLOY STEEL STANDARD, LINE, AND
PRESSURE PIPE FROM THE CZECH REPUBLIC, MEXICO, AND ROMANIA
Investigations Nos. 731-TA-846, 848 and 849 (Final)

DETERMINATIONS AND VIEWS OF THE COMMISSION
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DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from the Czech Republic and Romania of certain small diameter seamless carbon and alloy steel standard, line, and pressure pipe (“small diameter pipe”), provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.30, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).² The Commission made a negative determination concerning critical circumstances relating to imports from the Czech Republic. The Commission also determines that an industry in the United States is materially injured by reason of imports from Mexico of certain large diameter seamless carbon and alloy steel standard, line, and pressure pipe (“large diameter pipe”), provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at LTFV.³

BACKGROUND

The Commission instituted these investigations effective June 30, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by counsel for Koppel Steel Corp., Beaver Falls, PA; Sharon Tube Co., Sharon, PA; U.S. Steel Group, Fairfield, AL; USS/Kobe Steel Co., Lorain, OH; and Vision Metals’ Gulf States Tube Div., Rosenberg, TX. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of small diameter pipe from the Czech Republic and Romania and large diameter pipe from Mexico were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission’s investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal*

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 Commissioners Jennifer A. Hillman and Thelma J. Askey dissenting with respect to small diameter pipe of alloy steel. They determine that imports of such pipe from the Czech Republic and Romania are negligible.

³ Commissioner Thelma J. Askey dissenting with respect to large diameter pipe of alloy steel. She determines that imports of such pipe from Mexico are negligible.

Register of February 25, 2000 (65 FR 10107). The hearing was held in Washington, DC, on May 4, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

IEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is materially injured by reason of imports of certain small diameter seamless carbon and alloy standard, line, and pressure pipe (“small diameter pipe”) from the Czech Republic and Romania that the Department of Commerce found to be sold in the United States at less than fair value (“LTFV”).⁴ We further determine that an industry in the United States is materially injured by reason of imports of certain large diameter seamless carbon and alloy standard, line, and pressure pipe (“large diameter pipe”) from Mexico that Commerce found to be sold at LTFV.⁵

I. ADOPTION OF VIEWS IN CERTAIN SEAMLESS CARBON AND ALLOY STANDARD, LINE, AND PRESSURE PIPE FROM JAPAN AND SOUTH AFRICA

The instant investigations arose out of a group of simultaneously filed petitions that also included the petitions for our recently completed investigations of small diameter pipe from South Africa, and small and large diameter pipe from Japan.⁶ We were required to issue our determinations in the investigations of small diameter pipe from South Africa and Japan and large diameter pipe from Japan in June 2000 because Commerce issued its final determinations in those investigations earlier than it did in the current investigations. We engaged in a cumulated analysis of the volume and price effects of subject imports from the Czech Republic, Japan, Romania, and South Africa in making our determinations with respect to subject small diameter pipe imports from Japan and South Africa. We also engaged in a cumulated analysis of the volume and price effects of subject imports from Japan and Mexico in making our determinations with respect to subject large diameter pipe imports from Japan. Under section 771(7)(G)(iii) of the Tariff Act of 1930, as amended (“the Act”), we are required to make our material injury determinations in the instant investigations on the same record as that of the determinations regarding subject imports from Japan and South Africa, except that the record in these investigations also includes Commerce’s final determinations in these investigations.⁷ The record in these investigations is otherwise identical to that in the investigations regarding imports from Japan and South Africa. Therefore, in these investigations, we adopt the findings and analysis in our determinations regarding subject imports from

⁴ Commissioner Hillman determines that the industry in the United States producing small diameter seamless carbon steel standard, line, and pressure pipe is materially injured by reason of subject imports from the Czech Republic and Romania sold at LTFV, and that subject imports of small diameter seamless alloy steel standard, line, and pressure pipe from the Czech Republic and Romania are negligible.

⁵ Commissioner Askey determines that the industry producing small diameter seamless carbon steel standard, line, and pressure pipe in the United States is materially injured by reason of imports of small diameter seamless carbon steel standard, line, and pressure pipe from the Czech Republic and Romania that the Department of Commerce (“Commerce”) has found to be sold in the United States at less than fair value (“LTFV”). She further determines that the industry producing large diameter seamless carbon steel standard, line, and pressure pipe in the United States is materially injured by reason of imports of large diameter seamless carbon steel standard, line, and pressure pipe from Mexico that Commerce found to be sold at LTFV. However, she also determines that subject imports of small diameter seamless alloy steel standard, line, and pressure pipe from the Czech Republic and Romania are negligible. She further determines that subject imports of large diameter seamless alloy steel standard, line, and pressure pipe from Mexico are negligible. She writes separately to explain her views. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

⁶ Certain Seamless Carbon and Alloy Standard, Line, and Pressure Pipe from Japan and South Africa, Invs. No. 731-TA-847 and 850 (Final), USITC Pub. 3311 (June 2000).

⁷ 19 U.S.C. §1677(7)(G)(iii). See also Memorandum INV-X-153 (July 6, 2000) (“Supplemental Report”), reflecting Commerce’s antidumping margins for the Czech Republic, Mexico, and Romania.

Japan and South Africa with respect to domestic like product, domestic industry, cumulation, and material injury.⁸

With respect to the material injury analysis, we note that Commerce modified the dumping margins somewhat from its preliminary determinations.⁹ ¹⁰ The changes to the margins do not alter our conclusion that the domestic industry producing small diameter seamless pipe is materially injured by reason of cumulated subject imports,¹¹ and that the domestic industry producing large diameter seamless pipe is materially injured by reason of cumulated subject imports.

II. CRITICAL CIRCUMSTANCES

In its final antidumping determination as to small diameter pipe from the Czech Republic, Commerce made an affirmative finding of critical circumstances with respect to imports from Nova Hut, a.s. (“Nova Hut”), while making a negative finding with respect to imports in the “all others” category from the Czech Republic.¹² Because we have determined that the domestic small diameter pipe industry is materially injured by reason of subject small diameter pipe imports from the Czech Republic, we must further determine “whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”¹³ The SAA indicates that the Commission is to determine “whether, by massively increasing

⁸ Commissioner Hillman adopts her previous determination regarding like product, finding separate like products of alloy and carbon small diameter pipe. See Certain Seamless Carbon and Alloy Standard, Line, and Pressure Pipe from Japan and South Africa, USITC Pub. 3311, Dissenting Views of Commissioner Jennifer A. Hillman. She adopts the Commission’s cumulation and material injury discussion as applied to carbon small diameter pipe. While she analyzed data for carbon pipe alone, any difference from the data for carbon and alloy pipe combined that are contained in the Commission’s views is minimal with respect to both absolute numbers and trends.

⁹ Commerce’s amended preliminary dumping margins for the Czech producers were 32.26 percent for Nova Hut, and 32.26 percent for all others. 65 Fed. Reg. 12971 (March 10, 2000). Commerce’s final antidumping duty margins were 39.93 percent for Nova Hut, and 32.26 percent for all others. 65 Fed. Reg. 39363, 39364 (June 26, 2000). Commerce’s preliminary dumping margins for the Romanian producers were 13.75 percent for Sota Communication Co., 10.99 percent for Metal Business International S.R.L., and 12.34 percent for the Romania-wide rate. 65 Fed. Reg. 5594, 5599 (February 4, 2000). Commerce’s final antidumping duty margins were 19.11 percent for Sota Communication Co., 11.08 percent for Metal Business International S.R.L., and 14.99 percent for the Romania-wide rate. 65 Fed. Reg. 39125, 39127 (June 23, 2000). Commerce’s amended preliminary dumping margins for the Mexican producers were 14.20 percent for Tubos de Acero de Mexico, and 14.20 percent for all others. 65 Fed. Reg. 13715, 13716 (March 15, 2000). Commerce’s final antidumping duty margins were 19.65 percent for Tubos de Acero de Mexico, and 19.65 percent for all others. 65 Fed. Reg. 39358, 39359 (June 26, 2000).

¹⁰ Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles From China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

¹¹ Commissioner Hillman dissenting with respect to alloy small diameter pipe. Because there were no subject imports of this product from the Czech Republic or Romania, Commissioner Hillman finds these imports negligible under 19 U.S.C. § 1677(24)(A) and determines that the investigations with respect to alloy small diameter pipe from the Czech Republic and Romania should be terminated under 19 U.S.C. § 1673b(a).

¹² 65 Fed. Reg. 25907, 25908 (May 4, 2000).

¹³ 19 U.S.C. § 1673d(b)(4)(A)(i).

imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”¹⁴

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

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.¹⁵

Consistent with Commission practice, in considering the timing and volume of subject imports, we have considered import quantities prior to the filing of the petitions with those subsequent to the filing of the petitions.¹⁶ The record contains monthly export data for Nova Hut, the firm subject to the affirmative Commerce critical circumstances determination.¹⁷ We examined both the six-month periods before and after the filing of the petitions, and the three-month periods before and after the filing of the petitions within those six-month periods.^{18 19}

The petitions were filed on June 30, 1999. Comparing the three-month period April 1999 to June 1999 with the three-month period July 1999 to September 1999, relevant Czech imports rose from *** short tons to *** short tons. Comparing the six-month period January 1999 to June 1999 with the six-month period July 1999 to December 1999, relevant Czech imports rose from *** short tons to *** short tons. The largest volumes of monthly imports entered in *** 1999 (*** and *** short tons, respectively).²⁰

However, Nova Hut points out that *** caused a decline in Czech production and shipments in the first quarter of 1999, and, due to ***, a decline in U.S. imports from the Czech Republic in the first six

¹⁴ SAA at 877.

¹⁵ 19 U.S.C. § 1673d(b)(4)(A)(ii).

¹⁶ See, e.g., Preserved Mushrooms from China, India, and Indonesia, Invs. Nos. 731-TA-777-779 (Final), USITC Pub. 3159 (Feb. 1999) at 24.

¹⁷ All subject imports from the Czech Republic were of small diameter carbon pipe, and thus there were no subject imports of small diameter alloy pipe from the Czech Republic. Supplemental Report at Table I-2.

¹⁸ Chairman Koplan examined the six-month periods before and after the filing of the petitions. He does not join the analysis in this section which examines the three-month periods before and after the filing of the petitions.

¹⁹ In addition to examining the six month periods before and after the filing of the petition, Commissioner Bragg also compared the two, three, four, and five, month periods both preceding and following the filing of the petition. Commissioner Bragg notes that with regard to the imports from the Czech Republic at issue, each of the foregoing comparisons demonstrates an increase in imports following the filing of the petition. Commissioner Bragg further notes, however, that the largest increase in the absolute volume of imports for any of these periods is *** short tons, which is equivalent to only about *** percent of apparent U.S. consumption of small diameter pipe in 1999, as well as only about *** percent of the domestic industry’s production of small diameter pipe that year. Accordingly, although a post-petition increase in import volume is evidenced on the record, Commissioner Bragg finds that there has not been a massive surge in imports such that the remedial effect of an order on small diameter seamless pipe from the Czech Republic will be undermined seriously absent an affirmative critical circumstances determination.

²⁰ Supplemental Report at Table I-2.

months of 1999, while production, shipments, and imports ***.²¹ The data bear this out, showing that 1999 imports were *** lower than those in 1998, as discussed below. Thus, the comparisons between the six-month periods before and after the filing of the petitions, and between the three-month periods before and after the filing of the petitions, reflect those ***. More significantly, the overall volume of U.S. shipments of small diameter pipe from the Czech Republic was relatively steady over the period examined, but declined in 1999 to a level below shipments for 1997 and 1998: *** short tons in 1997, *** short tons in 1998, and *** short tons in 1999.²² These accounted for only *** percent of domestic apparent consumption, respectively.²³ These import levels do not weigh in favor of an affirmative critical circumstances finding.

As of December 31, 1998, U.S. inventories of small diameter pipe from the Czech Republic were *** short tons. As of December 31, 1999, U.S. inventories of small diameter pipe from the Czech Republic were *** short tons.²⁴ These inventory levels do not weigh in favor of an affirmative critical circumstances finding.

With respect to prices, our pricing data indicate that Czech prices were stable between the second quarter and the third quarter of 1999, but were *** lower in the fourth quarter of 1999 than in any prior quarter during the period examined. The fourth quarter of 1999 was also the quarter in which Czech underselling was ***, with a margin of underselling of *** percent for imported product 1 (1 inch pipe), and of *** percent for imported product 2 (4 inch pipe).²⁵ However, the significance of the *** decline in Czech prices in the fourth quarter of 1999 is mitigated by the general declining market conditions for small diameter pipe in 1999 (in which U.S. apparent consumption fell by over 32 percent), and by the fact that the volumes of Czech import shipments were *** (less than *** percent of U.S. apparent consumption in 1999).²⁶

In light of the declining volume of subject import shipments of Czech pipe in 1999, the relatively *** volumes of these subject imports, and the *** percentage of the U.S. market supplied by subject imports from the Czech Republic, we conclude that, notwithstanding the increase in volume in the post-petition period, the subject imports from the Czech Republic subject to the Commerce critical circumstances finding will not seriously undermine the remedial effect of the antidumping duty order.

Accordingly, we have made a negative critical circumstances determination concerning small diameter seamless pipe from the Czech Republic.

²¹ Nova Hut Final Comments, June 5, 2000, at 3-4.

²² Confidential Report (INV-X-122, dated June 5, 2000) (“CR”) and Public Report (“PR”) at Table IV-5. Imports from the Czech Republic increased from *** short tons in 1997 to *** short tons in 1998, but then declined to *** short tons in 1999. CR and PR at Table IV-3.

²³ CR and PR at Table C-3.

²⁴ CR and PR at Table VII-9.

²⁵ CR and PR at Tables V-1 and V-3.

²⁶ CR and PR at Table C-1.

CONCLUSION²⁷

For the foregoing reasons, we have determined that both the domestic small diameter seamless pipe industry and the domestic large diameter seamless pipe industry are materially injured by reason of the subject imports. Accordingly, we render affirmative determinations with respect to imports of small diameter seamless pipe from the Czech Republic and Romania, and with respect to imports of large diameter seamless pipe from Mexico.

²⁷ Commissioner Hillman dissenting with respect to small diameter seamless alloy pipe. Commissioner Askey dissenting with respect to small diameter seamless alloy pipe, and with respect to large diameter seamless alloy pipe.

**CONCURRING AND DISSENTING VIEWS OF
COMMISSIONER THELMA J. ASKEY**

Based on the record in these investigations, I determine that an industry in the United States is materially injured by reason of imports of small diameter seamless carbon steel standard, line, and pressure pipe from the Czech Republic and Romania that the Department of Commerce (“Commerce”) found to be sold in the United States at less than fair value (“LTFV”). I further determine that an industry in the United States is materially injured by reason of imports of large diameter seamless carbon steel standard, line, and pressure pipe from Mexico that Commerce found to be sold at LTFV.

However, I determine that subject imports of small diameter seamless alloy steel standard, line, and pressure pipe from the Czech Republic and Romania are negligible and vote to terminate the investigations with respect to them. I also determine that the subject imports of large diameter seamless alloy steel standard, line, and pressure pipe from Mexico are negligible and vote to terminate the investigations with respect to them.²⁸

I explained the reasoning underlying my determinations with respect to each of these countries in my concurring and dissenting views in the antidumping investigations covering subject imports of small and large diameter seamless carbon and alloy pipe from Japan and South Africa.²⁹ Accordingly, I adopt and incorporate my earlier views in this proceeding. I note that I have considered in my analysis the final dumping margins Commerce announced for the Czech, Romanian and Mexican producers in these proceedings.

The only open issue with respect to these investigations is whether there are critical circumstances with respect to small diameter carbon and alloy pipe from the Czech producer Nova Hut. The Commerce Department made an affirmative critical circumstances finding for this producer in its final determination.³⁰ Accordingly, I must further determine “whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”³¹ The SAA indicates that the Commission is to determine “whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”³² The statute further provides that in making this determination the Commission shall consider the timing and the volume of the imports, any rapid increase in inventories of the imports, and any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.³³

I find that imports of small diameter carbon pipe from Nova Hut are not likely to undermine seriously the remedial effect of the antidumping duty order to be issued. Consistent with the Commission’s traditional practice in this area, when considering the timing and volume of subject imports, I have

²⁸ In this opinion, I use the term “seamless carbon pipe” to refer to seamless carbon steel standard, line, and pressure pipe and the term “seamless alloy pipe” to refer to seamless alloy steel standard, line, and pressure pipe.

²⁹ Certain Seamless Carbon and Alloy Standard, Line, and Pressure Pipe from Japan and South Africa, Invs. Nos. 731-TA-847 and 850 (Final), USITC Pub. 3311, at 36-69 (June 2000) (Concurring and Dissenting Views of Commissioner Thelma J. Askey).

³⁰ 65 Fed. Reg. 39363, 39364 (June 26, 2000).

³¹ 19 U.S.C. § 1673d(b)(4)(A)(i).

³² SAA at 877.

³³ 19 U.S.C. § 1673d(b)(4)(A)(ii).

compared the import quantities during the six-month period prior to the filing of the petition with those during the six-month period subsequent to the filing of the petition.³⁴ The record indicates that, during the six month period after the filing of the petition, the volumes of the subject imports of small diameter carbon pipe from Nova Hut increased when compared to the six months prior to the filing of the petition, rising from *** short tons during the six months before the petition to *** short tons during the six months after the petition. However, I find that this increase is unlikely to undermine seriously the remedial effect of the antidumping duty order in a market in which consumption was approximately *** thousand tons in 1999, even during a period of significantly declining demand. Moreover, I note that the record indicates that the inventory levels of the Czech producers were small when compared to domestic consumption as well.

Accordingly, I make negative critical circumstances determinations concerning small diameter seamless carbon pipe from the Czech Republic.³⁵

³⁴ See, e.g., Preserved Mushrooms from China, India, and Indonesia, Invs. Nos. 731-TA-777-779 (Final), USITC Pub. 3159 at 24 (Feb. 1999).

³⁵ Moreover, because there were no imports of small diameter alloy pipe from the Czech Republic in 1999 at all, I make a negative critical circumstances finding for that product as well. CR and PR at Table IV-9.