

UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN STAINLESS STEEL BUTT-WELD PIPE FITTINGS FROM ITALY, MALAYSIA,
AND THE PHILIPPINES

Investigations Nos. 731-TA-865-867 (Final)

DETERMINATION AND VIEWS OF THE COMMISSION
(USITC Publication No. 3387, January 2001)

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-865-867 (Final)

CERTAIN STAINLESS STEEL BUTT-WELD PIPE FITTINGS FROM ITALY, MALAYSIA, AND THE PHILIPPINES

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission determines,² 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 of certain stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines, provided for in subheading 7307.23.00 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). The Commission further determines that critical circumstances do not exist with regard to those imports of the subject merchandise from Italy and the Philippines that were subject to affirmative critical circumstances determinations by the Department of Commerce.³

BACKGROUND

The Commission instituted these investigations effective December 29, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by Alloy Piping Products, Inc., Shreveport, LA; Flowline Division of Markovitz Enterprises, Inc., New Castle, PA; Gerlin, Inc., Carol Stream, IL; and Taylor Forge Stainless, Inc., North Branch, NJ. The final phase of the investigations involving Italy and the Philippines was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of certain stainless steel butt-weld pipe fittings from Italy and the Philippines were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). The final phase of the investigation involving Malaysia was scheduled at the same time even though Commerce made a negative preliminary determination in that investigation; Commerce ultimately made an affirmative final determination that imports of certain stainless steel butt-weld pipe fittings from Malaysia were being sold at LTFV within the meaning of section 735(b) of the Act (19 U.S.C. § 1673d(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 Register* of August 23, 2000 (65 FR 51328). The hearing was held in Washington, DC, on October 17, 2000, 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 Commissioner Dennis M. Devaney not participating.

³ Commissioner Lynn M. Bragg found that critical circumstances exist with regard to those imports of the subject merchandise from Italy and the Philippines that were subject to affirmative critical circumstances determinations by the Department of Commerce.

VIEWS 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 subject imports from Italy, Malaysia, and the Philippines that are sold in the United States at less than fair value.¹ We also determine that critical circumstances do not exist with respect to those subject imports from Italy and the Philippines that were subject to affirmative critical circumstances findings by the U.S. Department of Commerce (“Commerce”).²

On December 29, 1999, petitions were filed regarding certain stainless steel butt-weld pipe fittings (“butt-weld fittings”) from Germany, Italy, Malaysia, and the Philippines. The Commission’s views regarding subject imports from Germany were published in November 2000.³ The Commission was required to issue its determination with respect to subject imports from Germany in November 2000 because Commerce issued its final determination with respect to subject imports from Germany earlier than its final determinations with respect to subject imports from Italy, Malaysia, and the Philippines.

I. LIKE PRODUCT AND DOMESTIC INDUSTRY

The record in these investigations is nearly identical to the record on which the determination regarding subject imports from Germany was based, except that it also includes Commerce’s final determinations and the parties’ final comments concerning the significance thereof. Therefore, for purposes of these determinations, we adopt the findings and analysis in the Commission’s views regarding subject imports from Germany for the purpose of defining the domestic like product.⁴ We also adopt the findings and analysis regarding the definition of the domestic industry from the Commission’s views regarding subject imports from Germany.⁵ We find one domestic industry in these investigations and define it as all domestic producers of finished and unfinished butt-weld fittings having an outside diameter (based on nominal pipe size) of less than 14 inches.

We also must consider whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry a producer that is related to an exporter or importer of subject merchandise, or which is itself an importer.⁶ Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each case.⁷

¹ Commissioner Devaney did not participate in these investigations.

² Commissioner Bragg concurs that the domestic industry is materially injured by reason of subject imports from Italy, Malaysia, and the Philippines that are sold in the United States at less than fair value, but she dissents from the Commission’s determination regarding critical circumstances. Rather, Commissioner Bragg makes an affirmative critical circumstances determination with respect to those subject imports from Italy and the Philippines that were subject to affirmative critical circumstances findings by Commerce.

³ Certain Stainless Steel Butt-Weld Pipe Fittings from Germany, Inv. No. 731-TA-864 (Final), USITC Pub. 3372 (Nov. 2000) (“German Determination”).

⁴ German Determination, USITC Pub. 3372, at 3-7.

⁵ German Determination, USITC Pub. 3372, at 7. The domestic industry is defined as “the producers as a [w]hole of a domestic like product.” 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission’s general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

⁶ 19 U.S.C. § 1677(4)(B).

⁷ Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct Int’l. Trade 1989), aff’d without opinion, 904 (continued...)

We determine that two domestic producers are related parties – ***, both of which imported subject merchandise during the period of investigation.⁸

We find that appropriate circumstances do not exist to exclude *** from the domestic industry. *** only imported subject butt-weld fittings ***, and its subject imports were equivalent to *** percent of its domestic production in that year.⁹ ***.¹⁰ Although its financial performance was ***,¹¹ there is no clear indication that *** benefitted from its subject imports.

*** imported subject butt-weld fittings from ***.¹² Its subject imports were much higher than its domestic production, and the ratio of subject imports to domestic production increased over most of the period of investigation, suggesting that ***'s primary interest lies in importation rather than domestic production.¹³ ***.¹⁴ ***'s financial performance improved throughout much of the period of investigation, in contrast to the financial performance of most U.S. producers.¹⁵ Because of the magnitude of ***'s subject imports relative to its domestic production, and because the evidence suggests that *** may have

⁷(...continued)

F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct Int'l. Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the less than fair value sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct Int'l. Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-43 (Final), USITC Pub. 3016, at 14 n.81 (Feb. 1997).

⁸ Confidential Staff Report from Mem. INV-X-235 ("CR") and Public Staff Report from German Determination, USITC Pub. 3372 ("PR") at Table III-5. During the period of investigation, *** purchased subject imports from *** and *** purchased subject imports from ***. CR and PR at Table III-5. *** reported purchases of subject imports from ***, but it did not supply complete and usable data in the final phase of these investigations. CR at III-6 n.4; PR at III-5 n.4. Consistent with the analysis and findings in our views in the German determination, German Determination, USITC Pub. 3372, at 8 n.33, and in the preliminary phase of these investigations, Certain Stainless Steel Butt-Weld Pipe Fittings from Germany, Italy, Malaysia and the Philippines, Invs. Nos. 731-TA-864 to 867 (Prelim.), USITC Pub. 3281, at 7-8 (Feb. 2000), we find that the size of the purchases of subject imports by *** were too small during the period of investigation to infer that they directly or indirectly control, or are controlled by, any foreign respondent producers or importers of subject merchandise. Accordingly, we determine that *** are not related parties within the meaning of the statute.

Consistent with the analysis *infra* in our discussion of cumulation, we find that the purchases of butt-weld fittings ***, CR and PR at Table III-5, ***. Commissioner Bragg does not join with respect to this sentence. See *infra* n.29.

⁹ CR and PR at Table III-5.

¹⁰ CR at III-6; PR at III-5.

¹¹ CR and PR at Table VI-5.

¹² CR and PR at Table III-5.

¹³ CR and PR at Table III-5. In the German determination, we noted that ***. German Determination, USITC Pub. 3372, at 9 n.40. ***.

¹⁴ See, e.g., ***'s importer questionnaire response at 4.

¹⁵ CR and PR at Table VI-5.

benefitted from its subject imports, we find that appropriate circumstances exist to exclude *** from the domestic industry for purposes of these determinations.¹⁶

Accordingly, we define the domestic industry for purposes of these determinations as all domestic producers of finished and unfinished butt-weld fittings having an outside diameter (based on nominal pipe size) of less than 14 inches, except for ***.

II. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS OF BUTT-WELD FITTINGS FROM ITALY, MALAYSIA, AND THE PHILIPPINES

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.¹⁷ In making this determination, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.¹⁸ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹⁹ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.²⁰ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”²¹

For the reasons discussed below, we determine that the domestic industry producing butt-weld fittings is materially injured by reason of less than fair value imports of subject butt-weld fittings from Italy, Malaysia, and the Philippines.

A. Cumulation

1. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, Section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like product in the U.S. market.²² In assessing whether subject imports compete with each other and with the domestic like product,²³ the Commission has generally considered four factors, including:

¹⁶ We note that ***. CR and PR at Table III-1. Thus, its inclusion would have had an insignificant effect on our analysis of the domestic industry as a whole.

¹⁷ 19 U.S.C. § 1673d(b).

¹⁸ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor ... [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

¹⁹ 19 U.S.C. § 1677(7)(A).

²⁰ 19 U.S.C. § 1677(7)(C)(iii).

²¹ 19 U.S.C. § 1677(7)(C)(iii).

²² 19 U.S.C. § 1677(7)(G)(i).

²³ The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) expressly

(continued...)

- (1) the degree of fungibility among the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographical markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.²⁴

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.²⁵ Only a “reasonable overlap” of competition is required.²⁶

Because the petitions in these investigations of butt-weld fittings from Italy, Malaysia, and the Philippines were filed on the same day, the first statutory criterion for cumulation is satisfied. In addition, three of the four statutory exceptions to the general cumulation rule do not apply in these determinations.²⁷ The fourth statutory exception to the general cumulation rule, involving countries as to which investigations have been terminated, however, does apply. The Commission’s final negative determination regarding imports of butt-weld fittings from Germany and the resulting termination of the investigation of subject imports from Germany renders those imports ineligible for cumulation in the instant investigations pursuant to 19 U.S.C. § 1677(7)(G)(ii)(II).^{28 29}

(...continued)

states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition,” SAA, H.R. Rep. 103-316, vol. I at 848 (1994), citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

²⁴ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff’d, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade 1988), aff’d, 859 F.2d 915 (Fed. Cir.).

²⁵ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

²⁶ See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082 (Ct. Int’l Trade 1998) (“cumulation does not require two products to be highly fungible”); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

²⁷ These exceptions concern imports from Israel, countries as to which Commerce has made preliminary negative determinations, and countries designated as beneficiaries under the Caribbean Basin Economic Recovery Act. 19 U.S.C. § 1677(7)(G)(ii).

²⁸ This finding is consistent with the Commission’s approach in similar circumstances. Cf., e.g., Certain Cold-Rolled Steel from Turkey and Venezuela, Inv. Nos. 731-TA-839 to 840 (Final), USITC Pub. 3297 (May 2000).

²⁹ Commissioner Bragg disagrees that the statutory cumulation exception involving countries as to which investigations have been terminated applies in these circumstances. She determines that the record closing provision of 19 U.S.C. § 1677(7)(G)(iii) precludes the Commission from considering any information that postdates the November 13, 2000, closing of the record in these investigations, except as expressly provided by statute (i.e., Commerce’s final antidumping duty determinations and the parties’ final comments on the significance thereof). She has previously articulated this approach in similar circumstances. See, e.g., Certain
(continued...)

Therefore, we are required to determine whether there is a reasonable overlap of competition both among the subject imports from Italy, Malaysia, and the Philippines, and between the subject imports and the domestic like product.

2. Analysis

The record indicates that the degree of substitution between domestic and imported butt-weld fittings depends upon such factors as price, quality (whether the product meets the ASTM/ANSI standards, and, in some cases, if the product is produced by an approved manufacturers list (“AML”) producer), availability, and serviceability.³⁰ The majority of butt-weld fittings sold in the United States is produced from the most common austenitic grades of stainless steel (304/304L and 316/316L),³¹ but the record reflects domestic production of butt-weld fittings from non-standard grades, including from those grades used by Italian producer Coprosider.³² Butt-weld fittings meeting ASTM, ASME, and ANSI standards are produced in standard diameters (based on nominal pipe sizes) and standard wall thicknesses to ensure compatibility with pipes in flow systems,³³ and subject imports from Italy, Malaysia, and the Philippines and the domestic like product are all produced to such industry standards.³⁴ Some purchasers will insist on domestic products, or will require domestic products to fill “Buy American” requirements, but the record indicates that domestically produced butt-weld fittings and subject merchandise can be used interchangeably if the quality is the same (i.e., as long as the product meets the industry standards),³⁵ and the record reflects that there are generally no significant quality differences among subject imports or between subject imports and the domestic like product.³⁶ Domestic producers and importers reported that subject imports are “always” or “frequently” interchangeable with other subject imports, and with the domestic like product.³⁷ As further evidence of fungibility, the record indicates that distributors typically carry the products of many different manufacturers, including domestic and foreign producers.³⁸

²⁹(...continued)

Cold-Rolled Steel from Turkey and Venezuela, Inv. Nos. 731-TA-839 to 840 (Final), USITC Pub. 3297 (May 2000). Once the prerequisites for cumulation are satisfied (i.e., filing of petitions on the same day coupled with a reasonable overlap of competition), she does not believe that the statute dictates disparate analyses simply because certain of the investigations are concluded before others; indeed, to conclude otherwise carries implications for the analysis beyond the question of cumulation. In any event, she determines that imports from Germany are not eligible for cumulation for purposes of these present material injury determinations because imports from Germany are negligible under 19 U.S.C. § 1677(24), and she adopts the negligible imports analysis set forth in the views regarding subject imports from Germany. See German Determination, USITC Pub. 3372, at 9-11.

³⁰ CR at II-6; PR at II-3.

³¹ CR at I-5; PR at I-4.

³² Compare, e.g., Coprosider’s Prehearing Brief at 3-5, Exhibit 2; Hearing Tr. at 144-47 (Faina), with, e.g., Petitioners’ Posthearing Brief at 6-7; Petitioners’ Response to Commission’s Questions at 17-18; Hearing Tr. at 230 (Kerwin); CR at I-5; PR at I-4.

³³ CR at I-4 to I-5, I-7; PR at I-4, I-6.

³⁴ See, e.g., Hearing Tr. at 155 (Blumenkrantz), 170-71 (Blumenkrantz); Foreign Producer Questionnaire Responses at 4 (question 6); CR at II-6; PR at II-3.

³⁵ CR at I-10, II-1; PR at II-1.

³⁶ CR at II-1; PR at II-1.

³⁷ CR at II-7 to II-9; PR at II-4 to II-5; CR and PR at Tables II-3 and II-4.

³⁸ CR at II-1; PR at II-1.

The parties disagreed about the size and importance of the AML segment of the market, and the extent to which non-AML purchases may be substituted for AML products if the offered prices are low enough. While there is some evidence that subject imports from Malaysia and the Philippines are not as widely approved for AML sales as subject imports from Italy and the domestic like product,³⁹ the record nevertheless reflects that subject imports from Italy, Malaysia, and the Philippines, as well as the domestic like product are all sold in both the AML⁴⁰ and non-AML markets⁴¹ for overlapping end uses.⁴²

There were some differences in product mix among subject imports, and between subject imports and the domestic like product in terms of size (under 6-inches, or 6-inches and more in outside diameter);⁴³ degree of processing (finished or unfinished);⁴⁴ and raw material (seamless or welded pipe),⁴⁵ but there was also overlap among subject imports and between subject imports and the domestic like product even with respect to these criteria.⁴⁶ While we are mindful of product mix issues, the available data suggest that subject imports from Italy, Malaysia, and the Philippines are at least moderately fungible with one another and with the domestic like product.⁴⁷

Subject imports from Italy, the Philippines, and Malaysia, and the domestic like product were all sold throughout the period of investigation and in the same geographical market – throughout the United

³⁹ CR at II-2; PR at II-1; see also, e.g., Coprosider's Prehearing Brief at Exhibit 4 (providing examples of purchase orders and requests for bids that excluded countries like the Philippines and Malaysia).

⁴⁰ See, e.g., CR at II-1 to II-2; PR at II-1. As petitioners noted, McJunkin and R.J. Gallagher, two major distributors of domestically produced and subject butt-weld fittings, and correspondingly, any of their suppliers, as well as Kanzen Tetsu, and Schulz Malaysia are on Union Carbide Corporation's AML. Coprosider is on a number of AMLs, including for Shell Oil Products Company. *** purchaser questionnaire response indicated that ***, and ***. Petitioners also submitted evidence that Schulz Malaysia is an approved supplier for Liberty Electric Power; Kanzen Tetsu is an approved supplier for Shell USA, Dow Chemical Plants, Shell Refinery Plants, Exxon Refinery Plants, and ***; and Tung Fong is approved to sell butt-weld fittings for use in chemical processing plants, petroleum refineries, and pharmaceutical plants, as indicated in its promotional materials. See, e.g., Petitioners' Prehearing Brief at 27-30; Petitioners' Posthearing Brief at 8-11, Exhibit 2; Petitioners' Response to the Commission's Questions at 33-34; Hearing Tr. at 22-23 (Barfield), 35-37 (Mavrich), 42-43 (Kerwin), 97-98 (Mavrich, Sharkey), 144-50 (Faina), 206 (Amerine); see also, e.g., Conference Transcript at 47-51; Petitioners' Postconference Brief at 19-20, Exhibit 1. Finally, the purchasers' questionnaire response of *** indicates that ***. Purchasers' Questionnaire Response of *** at 9.

⁴¹ See, e.g., Coprosider's Posthearing Brief at 4-5; Hearing Tr. at 23 (Barfield), 35-37 (Mavrich), 42-43 (Kerwin), 138 (Putman), 144 (Faina), 147 (Faina), 149-50 (Faina); Importers' Questionnaire Response of *** at 12; Purchasers' Questionnaire Response of *** at 11; Purchasers' Questionnaire Response of ***; Purchasers' Questionnaire Response of ***; Purchasers' Questionnaire Response of ***.

⁴² See, e.g., CR and PR at Table I-1.

⁴³ CR and PR at Table IV-2.

⁴⁴ CR and PR at Table IV-3.

⁴⁵ CR and PR at Table IV-4.

⁴⁶ Thus, although the distribution differed somewhat among sources, during the period of investigation, there were subject imports from Italy, Malaysia, the Philippines, and domestic shipments of: butt-weld fittings less than 6-inches in outside diameter, butt-weld fittings 6-inches and over in outside diameter, unfinished butt-weld fittings, finished butt-weld fittings, welded butt-weld fittings, and seamless butt-weld fittings. CR and PR at Tables IV-2, IV-3, and IV-4.

⁴⁷ See, e.g., CR at I-10, II-1, II-6 to II-9; PR at I-8, II-1, II-3 to II-6; CR and PR at Tables II-3, II-4, IV-2, IV-3, IV-4.

States.⁴⁸ While some butt-weld fittings were sold directly to end users, and some domestic producers purchased unfinished butt-weld fittings, in general, a significant proportion of butt-weld fittings from all sources were sold through distributors.⁴⁹

Based on the evidence in the record of geographic overlap, simultaneous presence, similar channels of distribution, and at least moderate fungibility among the subject imports from Italy, Malaysia, and the Philippines and between the subject imports from Italy, Malaysia, and the Philippines and the domestic like product, we find a reasonable overlap of competition among the subject imports from Italy, Malaysia, and the Philippines, and between the subject imports from Italy, Malaysia, and the Philippines and the domestic like product. Consequently, we cumulate subject imports from Italy, Malaysia, and the Philippines for purposes of our analysis of whether the domestic industry is materially injured by reason of the subject imports from Italy, Malaysia, and the Philippines.

B. Conditions of Competition⁵⁰

There are several conditions of competition that are relevant to our material injury analysis of subject imports from Italy, Malaysia, and the Philippines. The demand for butt-weld fittings is a derived demand. Most producers and importers stated that the primary end users of the product – the chemical, petrochemical, petroleum refining, nuclear, food and dairy, and pulp and paper industries – demand butt-weld fittings because of the metallurgical properties of stainless steel, such as non-corrosiveness for use in piping systems where extreme temperatures and high pressures are present.⁵¹ There are no known commercial substitutes for butt-weld fittings.⁵² Available data indicate that apparent U.S. consumption of butt-weld fittings fluctuated over the period of investigation, increasing overall from 17.0 million pounds in 1997 to 18.0 million pounds in 1999, and was 12.0 million pounds in interim 2000 compared to 8.5 million pounds in interim 1999.⁵³ The record, however, indicates that demand in the butt-weld fittings market was generally flat.⁵⁴

Sales of butt-weld fittings in the U.S. market by domestic producers and importers take place primarily through distributors, who generally stock large quantities of items from many different sources and then resell them to final customers.⁵⁵ Some of the distributors are also importers of butt-weld fittings from both subject and nonsubject countries.⁵⁶

⁴⁸ CR at I-8, V-1 to V-2; PR at I-7, V-1; CR and PR at Table IV-1.

⁴⁹ CR and PR at Table I-1.

⁵⁰ Commissioner Bragg notes that internal consumption and shipments to related firms ***, accounted for less than *** percent of U.S. shipments in all reporting periods. CR at III-5; PR at III-3; CR and PR at Table III-4. She does not find this level of related party transactions to be significant as required by the statutory captive production provision, 19 U.S.C. § 1677(7)(C)(iv). She notes that no party argued that the statutory captive production provision applies in these investigations.

⁵¹ CR at II-4; PR at II-3; CR and PR at Table I-1.

⁵² CR at I-10, II-4; PR at I-8, II-2.

⁵³ CR and PR at Table IV-6.

⁵⁴ CR at II-3 to II-4; PR at II-2; CR and PR at Table IV-6; see also, e.g., Hearing Tr. at 175-79 (Palma, Blumenkrantz, Putman, Klett).

⁵⁵ CR at II-1; PR at II-1; CR and PR at Table I-1.

⁵⁶ CR at I-8 to I-9, II-1; PR at I-7 to I-8, II-1; CR and PR at Table I-1.

Butt-weld fittings are typically produced to standard specifications, most notably ASTM A403/A403M.⁵⁷ Butt-weld fittings are distinguishable by type (elbows, tees, reducers, caps, etc.); by size (outside diameter); by steel grade (commonly 304/304L or 316/316L); by raw material (seamless or welded pipe); by degree of processing (finished or unfinished); or by wall thickness.⁵⁸ The parties disagreed about whether butt-weld fittings are a commodity product, and about the extent to which non-price considerations are important to purchasers. While we are mindful of product mix issues, we note that the available data suggest that subject imports from Italy, Malaysia, and the Philippines are at least moderately fungible with one another and with the domestic like product, as indicated in more detail in our cumulation discussion.⁵⁹

The domestic market is supplied by multiple sources. These include at least twelve domestic producers of the domestic like product, imports from the subject countries, and non-subject imports.⁶⁰ Nonsubject imports fell from *** pounds in 1997 to *** pounds in 1999, and were *** pounds in interim 2000, compared to *** pounds in interim 1999; their share of apparent U.S. consumption fell from *** percent in 1997 to *** in 1999, and was *** in interim 2000, compared to *** in interim 1999.⁶¹ The record indicates that nonsubject imports are substitutable for the domestic like product and subject imports.⁶²

C. Volume of the Cumulated Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁶³

The quantity of cumulated imports of subject butt-weld fittings from Italy, Malaysia, and the Philippines rose from *** pounds in 1997 to *** pounds in 1999, and was *** pounds in interim 2000, compared to *** pounds in interim 1999.⁶⁴ The volume of cumulated subject imports in 1999 was ***

⁵⁷ CR and PR at I-1 n.1.

⁵⁸ CR at I-5, I-7; PR at I-4, I-6; CR and PR at Figure I-1.

⁵⁹ See, e.g., CR at I-10, II-1, II-6 to II-9; PR at I-8, II-1, II-3 to II-6; CR and PR at Tables II-3, II-4, IV-2, IV-3, IV-4.

⁶⁰ CR and PR at Tables III-1, IV-1.

⁶¹ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁶² CR and PR at Tables II-3, II-4.

⁶³ 19 U.S.C. § 1677(7)(C)(i).

⁶⁴ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative). We treated imports of butt-weld fittings from Enlin as subject imports from the Philippines. Tung Fong, a manufacturer in the Philippines, alleged that Enlin transshipped butt-weld fittings from other countries through the Philippines to the United States, in order to evade U.S. antidumping duty orders on butt-weld fittings from Japan and Taiwan. See, e.g., Tung Fong’s Prehearing Brief; Tung Fong’s Final Comments; and Tung Fong’s Posthearing Brief (attaching numerous documents demonstrating a regular flow of butt-weld fittings from Taiwan and Japan into the Philippines, a regular flow of butt-weld fittings from the Philippines to the United States, and a sequential invoicing system used to track imports into the Philippines that appears to be similar to, and chronologically related to, the sequential invoicing system used to track exports from the Philippines. The documents, however, did not demonstrate a specific instance of transshipments – due to differences in timing, volume, value, or invoice numbers, the “import” documents do not tie to the “export” documents). The Commission has no information from Commerce or Customs indicating that the imports in question are from anywhere but the Philippines. We find that the evidence provided by Tung Fong is not sufficient to outweigh the certifications provided by Enlin (Philippines) and Enlin USA regarding the origin of the butt-weld fittings and the absence of production facilities in Taiwan for Enlin to produce butt-weld fittings,

(continued...)

percent higher than in 1997, and the volume of cumulated subject imports in interim 2000 was *** percent higher than in interim 1999.⁶⁵ The share of apparent U.S. consumption supplied by cumulated subject imports of butt-weld fittings increased from *** percent in 1997 to *** percent in 1999, and was *** percent in interim 2000, compared to *** percent in interim 1999.⁶⁶

Accordingly, we find the cumulated volume of subject imports and the increase in that volume, in absolute and relative terms, to be significant.

D. Price Effects of the Cumulated Subject Imports

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

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

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁶⁷

The Commission collected pricing data for six types of butt-weld fittings. The data show that prices for domestically produced butt-weld fittings declined *** between 1997 and the third quarter of 1999.⁶⁸ During this period, there was persistent underselling by the subject imports from Italy, Malaysia, and the Philippines, by significant margins.⁶⁹ Prices of subject imports also generally declined during this period, which was a time of generally flat demand.⁷⁰ While we view average unit values in this industry with caution given product mix issues, we note that average unit values declined for both the domestic like product and subject imports, and that the decline in the domestic industry's average unit values during this period exceeded the decline in raw material costs.⁷¹ We find that the underselling is particularly significant

⁶⁴(...continued)

and other evidence on the record. See, e.g., Enlin's Foreign Producer Questionnaire Response; Enlin USA's Importer Questionnaire Response; CR at IV-5; PR at IV-4; Hearing Tr. at 89-94 (Kerwin, Mavrich, Sharkey, Barfield).

⁶⁵ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative). In contrast, we note that the volume of nonsubject imports declined *** percent between 1997 and 1999, and the volume of nonsubject imports was *** percent higher in interim 2000 than in interim 1999. Id.

⁶⁶ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁶⁷ 19 U.S.C. § 1677(7)(C)(ii).

⁶⁸ Mem. INV-X-239 (Nov. 13, 2000), Tables V-1, V-3, V-4, V-5, and V-6.

⁶⁹ Mem. INV-X-239 (Nov. 13, 2000), Tables V-1, V-3, V-4, V-5, V-6, and V-7.

⁷⁰ Mem. INV-X-239 (Nov. 13, 2000), Tables V-1, V-3, V-4, V-5, and V-6; CR and PR at Table IV-6.

⁷¹ CR at VI-17; PR at VI-6; CR and PR at Tables VI-1 and VI-6. There is no evidence of a dramatic change in product mix between 1997 and 1999. In contrast, we note that the average unit value of nonsubject imports increased between 1997 and 1999, and the average unit value of nonsubject imports in interim 2000 was higher than in interim 1999. Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

in light of record evidence indicating substitutability between subject imports and the domestic like product, as discussed earlier,⁷² and the evidence that price is an important factor in purchasing decisions.⁷³

While prices of butt-weld fittings increased somewhat in the three most recent quarters captured by the data on the record, they remained far below their levels in 1997, before the significant increase in the volume of cumulated subject imports.⁷⁴ The rise in prices during this nine-month period is attributable at least in part to a temporary increase in apparent U.S. consumption,⁷⁵ the pendency of these investigations,⁷⁶ and to some degree, a rise in raw material costs.⁷⁷ We note, however, more recent evidence of price declines in the period subsequent to the data collected by the Commission.⁷⁸

In light of the *** decline in price levels during most of the period examined, the pervasive and significant underselling, and the substitutability of subject imports and the domestic like product, we find that the subject imports depressed and suppressed domestic prices to a significant degree.

E. Impact of the Cumulated Subject Imports on the Domestic Industry^{79 80}

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”⁸¹ These factors include output, sales, inventories, capacity utilization, market share,

⁷² While domestic producers claimed that they were unable to provide a large number of lost revenue and lost sales allegations, those that they did provide were confirmed. CR at V-23; PR at V-20. Moreover, a witness for one of the respondents conceded that subject imports from Malaysia and the Philippines were depressing prices in the domestic market. See Hearing Tr. at 152 (Palma), 192-93 (Palma), 202 (Palma).

⁷³ CR and PR at Table II-2.

⁷⁴ Mem. INV-X-239 (Nov. 13, 2000), Tables V-1, V-3, V-4, V-5, and V-6; see also Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁷⁵ Although apparent U.S. consumption increased in the latter part of the period covered by the data on the record, some of the volume in question went into importers’ or distributors’ inventories. CR and PR at Table IV-5; Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative); see also, e.g., Petitioners’ Response to Commission’s Questions at 35-36; Hearing Tr. at 33 (Mavrich), 175-77 (Palma, Blumenkrantz, Putman).

⁷⁶ We note that the statute directs us to “consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation ... is related to the pendency of the investigation,” and if so, we may “reduce the weight accorded to the data for the period after the filing of the petition” in making our material injury determination. 19 U.S.C. § 1677(7)(I).

⁷⁷ Mem. INV-X-239 (Nov. 13, 2000), Tables V-1, V-3, V-4, V-5, and V-6; Hearing Tr. at 81-82 (Sharkey), 200 (Klett).

⁷⁸ See, e.g., Hearing Tr. at 46-47 (Kerwin); 81-82 (Sharkey); Petitioners’ Response to Commission’s Questions at 26-28.

⁷⁹ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). Commerce’s final antidumping margins are as follows: Coprosider (26.59), all others from Italy (26.59), Kanzen Tetsu (7.51), all others from Malaysia (7.51), Enlin (33.81), Tung Fong (33.81), all others from the Philippines (33.81).

⁸⁰ 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, e.g., Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

⁸¹ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these (continued...)”).

employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the industry.”⁸²

Although domestic production capacity increased somewhat over the period of investigation, the level of domestic production was largely stable. Capacity utilization declined from *** percent in 1997 to *** percent in 1999, and was *** percent in interim 2000 compared to *** percent in interim 1999.⁸³ The level of domestic inventories increased somewhat between 1997 and 1999, and was *** higher *** in interim 2000 than in interim 1999.⁸⁴ While the quantity of domestic shipments increased between 1997 and 1999, and was higher in interim 2000 than in interim 1999, the value of domestic shipments declined *** between 1997 and 1999, although it was *** percent higher in interim 2000 than in interim 1999.⁸⁵ Industry net sales value declined from *** in 1997 to *** in 1999, but was *** in interim 2000, compared to *** in interim 1999.⁸⁶ Operating income fell from *** in 1997 to *** in 1999, a decline of *** percent over that period, as price declines greatly exceeded the reductions in raw materials costs and other costs of goods sold; operating income in interim 2000, however, was ***, compared to *** in interim 1999.⁸⁷ As a percentage of sales, operating income fell from *** percent in 1997 to *** percent in 1999, but was *** percent in interim 2000 compared to *** percent in interim 1999.⁸⁸

Many producers indicated that they had to reduce the size of their capital investments or cancel expansion projects,⁸⁹ and capital expenditures fluctuated, but were markedly higher in 1999 than in 1997, before decreasing in the first half of 2000.⁹⁰ The domestic industry’s *** research and development expenditures were higher in 1999 than in 1997 or 1998, but lower in the first half of 2000.⁹¹ Finally, the number of production workers and hours worked fell between 1997 and 1999, but were higher in interim 2000 than in interim 1999.⁹²

The declines in several of the major domestic industry indicators coincided with the significant increase in both absolute and relative terms of the volume of cumulated subject imports, and reflects the significant price-depressing and suppressing effects of those subject imports.

The recent improvements in some of the major domestic industry indicators were modest, and occurred as other industry indicators declined. Domestic producers testified and submitted other evidence

⁸¹(...continued)

factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” *Id.* at 885).

⁸² 19 U.S.C. § 1677(7)(C)(iii).

⁸³ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁸⁴ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁸⁵ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁸⁶ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁸⁷ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁸⁸ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative).

⁸⁹ CR and PR at Appendix D.

⁹⁰ CR and PR at Table VI-7.

⁹¹ CR and PR at Table VI-7.

⁹² We note that *** did not provide information regarding employment indicators, so the data coverage in the record is limited.

regarding continued difficulties of the domestic industry, including ***,⁹³ and declines of *** percent in the level of domestic shipments in the third quarter 2000 compared to the first two quarters of the year.⁹⁴ Testimony was provided and information was submitted suggesting that the price increases in the three most recent quarters covered by the Commission's pricing data were soon followed by price declines, and suggesting that the increase in apparent U.S. consumption was temporary.⁹⁵

Thus, we find that the cumulated subject imports are having a significant adverse impact on the domestic butt-weld fittings industry. Accordingly, we determine that the domestic butt-weld fittings industry is materially injured by reason of cumulated subject imports from Italy, Malaysia, and the Philippines that were sold in the United States at less than fair value.

III. CRITICAL CIRCUMSTANCES⁹⁶

In its final antidumping duty determinations regarding subject imports from Italy and the Philippines, Commerce made affirmative findings of critical circumstances with respect to subject butt-weld fittings produced and/or exported by Coprosider, an Italian producer, and Enlin and Tung Fong, two producers from the Philippines.⁹⁷ Because we have determined that the domestic butt-weld fittings industry is materially injured by reason of subject imports from Italy and the Philippines, 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."⁹⁸ 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."⁹⁹

⁹³ See, e.g., Petitioners' Response to Commission's Questions at 26-28; Hearing Tr. at 30 (Sharkey), 32-35 (Mavrigh), 45-48 (Kerwin), 80-82 (Sharkey, Mavrigh), 86-88 (Barfield, Mavrigh).

⁹⁴ See, e.g., Petitioners' Response to Commission's Questions at 27, 35-36.

⁹⁵ See, e.g., Hearing Tr. at 32-35 (Mavrigh), 160 (Klett), 175-79 (Klett, Putman, Palma, Blumenkrantz), 201 (Putman), 231 (Kerwin); Petitioners' Response to Commission's Questions at 26-28.

⁹⁶ Commissioner Bragg finds that the most important period for rendering critical circumstances determinations in these investigations is the six-month period following the filing of the petitions. The record indicates that subject imports from the Italian producer at issue increased from *** pounds during the period July-December 1999 to *** pounds during the period January-June 2000. Subject imports from the Philippine producers at issue increased from *** pounds during the period July-December 1999 to *** pounds during the period January-June 2000. Mem. INV-Y-002 (Jan. 4, 2001) at Tables I-1 to I-3. In addition, the record indicates that although importers' inventories of subject merchandise from Italy and the Philippines declined between the relevant six month periods, Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative), inventories of Italian and Philippine subject imports held by U.S. distributors surged in early 2000. Hearing Tr. at 175 (Blumenkrantz), 210 (Blumenkrantz). This is an important distinction because the record indicates that with respect to subject imports from these two subject countries, distributors, rather than importers, are the primary holders of subject import inventories in the United States. Hearing Tr. at 176 (Blumenkrantz). Based upon the foregoing, Commissioner Bragg finds that subject imports from the Italian and Philippine producers at issue would undermine seriously the remedial effects of the antidumping duty orders. Accordingly, Commissioner Bragg renders affirmative critical circumstances determinations with respect to those subject imports from Italy and the Philippines that were subject to affirmative critical circumstances findings by Commerce.

⁹⁷ See Stainless Steel Butt-Weld Pipe Fittings from Italy, 65 Fed. Reg. 47388, 47391-92 (Aug. 2, 2000); Stainless Steel Butt-Weld Pipe Fittings from the Philippines, 65 Fed. Reg. 81823 (Dec. 27, 2000); Stainless Steel Butt-Weld Pipe Fittings from the Philippines, 65 Fed. Reg. 47393, 47396-97 (Aug. 2, 2000).

⁹⁸ 19 U.S.C. § 1673d(b)(4)(A)(i).

⁹⁹ SAA at 877.

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.¹⁰⁰

Consistent with Commission practice, in considering the timing and volume of subject imports, we have considered import quantities prior to the filing of the petition and those subsequent to the filing of the petition.¹⁰¹ The record contains monthly export data for the firms subject to the affirmative Commerce critical circumstances determination. We examined the data included in the six-month periods before and after the filing of the petitions.¹⁰²

Exports from Italy and the exports from the Philippines subject to Commerce's affirmative critical circumstances determinations were higher in the period following filing of the petition than in the period preceding it.¹⁰³ Although the record does not contain information specifically concerning U.S. importers' inventories of subject butt-weld fittings of those firms subject to Commerce's affirmative critical circumstances findings,¹⁰⁴ end-of-period inventories of all subject imports from Italy decreased from *** pounds at the end of 1999 to *** pounds at the end of June 2000, and end-of-period inventories of all subject imports from the Philippines decreased from *** pounds at the end of 1999 to *** pounds at the end of June 2000.¹⁰⁵ We determine that imports of butt-weld fittings subject to affirmative critical circumstances findings by Commerce will not seriously undermine the remedial effect of the antidumping duty orders. The increase in the volume of exports from Coprosider, Tung Fong, and Enlin since the filing of the petitions occurred during a time of increasing apparent U.S. consumption and coincided with increases in the volume of non-subject imports and increases in the level of domestic shipments.¹⁰⁶ Further, we do not see the significant increases in inventories of subject imports which we would expect, at least at the importer level.¹⁰⁷ Particularly in light of the increasing prices experienced during that time,¹⁰⁸ we do not

¹⁰⁰ 19 U.S.C. § 1673d(b)(4)(A)(ii).

¹⁰¹ See, e.g., Preserved Mushrooms from China, India, and Indonesia, Invs. Nos. 731-TA-777 to 779 (Final), USITC Pub. 3159 at 24 (Feb. 1999).

¹⁰² Mem. INV-Y-002 (Jan. 4, 2001) at Tables I-1 to I-3.

¹⁰³ Mem. INV-Y-002 (Jan. 4, 2001) at Tables I-1 to I-3. The volume of imports of all subject merchandise from Italy and the volume of all subject merchandise from the Philippines was also larger over the course of the six-month period following the filing of the petitions than it was during the six-month period preceding the filing of the petitions. CR and PR at Table IV-5.

¹⁰⁴ The record, however, suggests that the firms subject to Commerce's final affirmative critical circumstances findings were the only source of subject imports from Italy and the Philippines.

¹⁰⁵ Mem. INV-Y-008 (Jan. 16, 2001), at Table B-1 (alternative).

¹⁰⁶ CR and PR at Table IV-5; Mem. INV-Y-002 (Jan. 4, 2001) at Tables I-1 to I-3.

¹⁰⁷ We acknowledge petitioners' argument that increased inventories should also be apparent at the distributor level, see, e.g., Petitioners' Final Comments at 14; Hearing Tr. at 33-35 (Mavrich), 38 (Mavrich), 47-49 (Kerwin), 81 (Mavrich), 87 (Barfield), 113-14 (Kerwin, Sharkey), 118-22 (Sharkey, Barfield, Mavrich, Kerwin), even if the record does not show the significant increase in the level of inventories at the importer level. CR and PR at Table VII-5. Other testimony indicated that distributor inventories were high due to a downturn in demand, had been built up in anticipation of increased raw materials costs, not necessarily in anticipation of antidumping duty orders, and frequently did not distinguish among inventories originating from Italy, the Philippines, and other sources.

(continued...)

believe that the increased volume of those subject imports from Italy and the Philippines will seriously undermine the remedial effects of the antidumping duty orders.

Accordingly, we make negative critical circumstances determinations concerning those imports of butt-weld fittings from Italy and the Philippines that are subject to final affirmative critical circumstances findings by Commerce.

CONCLUSION

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of imports of subject butt-weld fittings from Italy, Malaysia, and the Philippines that are sold in the United States at less than fair value. We also make negative critical circumstances determinations concerning those subject imports from Italy and the Philippines that were subject to final affirmative critical circumstances findings by Commerce.¹⁰⁹

¹⁰⁷(...continued)

See, e.g., Hearing Tr. at 175-79 (Palma, Blumenkrantz, Putman, Klett).

¹⁰⁸ Mem. INV-Y-008 (Jan. 16, 2001) at Table B-1 (alternative); see also Mem. INV-X-239 (Nov. 13, 2000) at Tables V-1, V-3, V-4, V-5, and V-6.

¹⁰⁹ Commissioner Bragg dissents from the Commission's negative critical circumstances finding, as indicated earlier.