

UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN STRUCTURAL STEEL BEAMS FROM CHINA, GERMANY, ITALY,
LUXEMBOURG, RUSSIA, SOUTH AFRICA, SPAIN, AND TAIWAN
Investigations Nos. 731-TA-935-942 (Preliminary)

DETERMINATIONS AND VIEWS OF THE COMMISSION
(USITC Publication No. 3438, July 2001)

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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 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan of certain structural steel beams, provided for in subheadings 7216.32.00, 7216.33.00, 7216.50.00, 7216.61.00, 7216.69.00, 7216.91.00, 7216.99.00, 7228.70.30, and 7228.70.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

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

BACKGROUND

On May 23, 2001, a petition was filed with the Commission and Commerce by counsel on behalf of Northwestern Steel & Wire Co., Sterling, IL; Nucor Corp., Charlotte, NC; Nucor-Yamato Steel Co., Blytheville, AR; and TXI-Chaparral Steel Co., Midlothian, TX, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of structural steel beams from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan. Accordingly, effective May 23, 2001, the Commission instituted antidumping duty investigations Nos. 731-TA-935-942 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in

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

connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 4, 2001 (66 FR 29989). The conference was held in Washington, DC, on June 13, 2001, 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 find that there is a reasonable indication that an industry in the United States producing certain structural steel beams is materially injured by reason of imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan that are allegedly sold in the United States at less than fair value.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”³ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁴ In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”⁵

The decision regarding the appropriate domestic like product(s) in investigations is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁶ No single factor is dispositive, and the Commission

¹ 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int’l Trade 1999).

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

³ 19 U.S.C. § 1677(4)(A).

⁴ 19 U.S.C. § 1677(4)(A).

⁵ 19 U.S.C. § 1677(10).

⁶ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.⁷ The Commission looks for clear dividing lines among possible like products and disregards minor variations.⁸ Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.⁹ The Commission must base its domestic like product determination on the record in these investigations, and it is not bound by prior determinations pertaining even as to the same imported products.¹⁰ In recent investigations of structural steel beams, the Commission found a single domestic like product consisting of all structural steel beams.¹¹

B. Domestic Like Product

Commerce’s notice of initiation defines the imported merchandise within the scope of these investigations as follows:

doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These products (“structural steel beams”) include, but are not limited to, wide-flange beams (“W” shapes), bearing piles (“HP” shapes), standard beams (“S” or “I” shapes), and M-shapes.

Commerce also explained that

All products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following

⁶ (...continued)

distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁷ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

⁸ Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”)

⁹ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six domestic like products in investigations where Commerce found five classes or kinds).

¹⁰ Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

¹¹ Certain Structural Steel Beams from Korea, Invs. Nos. 701-TA-401 (Final) and 731-TA-854 (Final), USITC Pub. 3326, at 3 (Aug. 2000); Certain Structural Steel Beams from Japan, Inv. No. 731-TA-853 (Final), USITC Pub. 3308, at 3-5 (June 2000); Structural Steel Beams from Germany, Japan, Korea, and Spain, Invs. Nos. 701-TA-401 (Prelim.) and 731-TA-852 to 855 (Prelim.), USITC Pub. 3225, at 3-7 (Sept. 1999).

products are outside and/or specifically excluded from the scope of these investigations: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.¹²

Petitioners argued that the Commission should find that structural steel beams constitute a single domestic like product coextensive with the scope of these investigations because there have been no significant changes in any of the factors considered by the Commission in its domestic like product analysis since the last investigations.¹³ Most of the respondents have not opposed the domestic like product proposed by petitioners.¹⁴ One German producer, Hohenlimburg GmbH (“Hoesch”), however, argued in its postconference brief that structural steel beams for use in forklift trucks (“forklift mast profiles”) are a separate domestic like product than other structural steel beams.

According to ***, the ***,¹⁵ *** reported ***. Despite some differences in physical characteristics between forklift mast profiles and structural steel beams inasmuch as forklift mast profiles are smaller and more compact and to the extent that there are differences due to material grade and custom-design, forklift mast profiles and structural steel beams have the same basic shape. For example, Hoesch’s postconference brief indicates that both are produced in “W” and “S” shapes, but not necessarily in the same physical dimensions. The record indicates that structural steel beams are generally used in construction, but it also reflects that some structural steel beams are used in forklift masts.¹⁶ To the extent that forklift mast profiles are specially designed to a customer-specific standard, there might be some limitation on their interchangeability with structural steel beams, and consumers and producers might perceive them as different products.¹⁷

While there appear to be some differences in uses and customer and producer perceptions between forklift mast profiles and structural steel beams that may affect their interchangeability with structural steel beams, the record indicates some similarities in terms of physical characteristics, production processes, equipment, and workers, and channels of distribution. In addition, it is not clear whether forklift mast profiles are among a spectrum of products that are properly considered a single domestic like product, some of which are tailored to a particular end use. Based on these considerations and the limited information regarding this issue on the record, we define the domestic like product coextensively with the scope of these investigations as all structural steel beams for purposes of the preliminary phase of these investigations.

¹² Structural Steel Beams from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan, 66 Fed. Reg. 33048 (June 20, 2001). Commerce identified the subject merchandise as classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheadings and statistical reporting numbers 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000, noting that the HTSUS statistical reporting numbers were provided for convenience and Customs purposes and that the written description of the merchandise under investigation is dispositive.

¹³ Petitions at 6; see generally Petitioners’ Postconference Brief at Exhibit 1 at 14.

¹⁴ Transcript of the Commission’s June 13, 2001 conference (“Conference Tr.”) at 122.

¹⁵ It is not known how many U.S. firms produce or are capable of producing forklift mast profiles with their current equipment. Hoesch’s information regarding practices in Germany is not relevant to the Commission’s definition of the U.S.-produced product. See, e.g., Stainless Steel Butt-Weld Pipe Fittings from Germany, Italy, Malaysia, and the Philippines, Invs. Nos. 731-TA-864 to 867, USITC Pub. 3281 at 6 & n.13 (Feb. 2000).

¹⁶ It is not clear whether forklift mast profiles are used in construction and other structural applications.

¹⁷ See, e.g., Hoesch’s Postconference Brief; Mem. INV-Y-129 (July 6, 2001); Confidential Report in these investigations (Mem. INV-Y-124, July 2, 2001) (“CR”) at I-3 to I-4; Public Report (“PR”) at I-2 to I-3; ***.

C. Domestic Industry and Related Parties

In defining the domestic industry, the Commission's general practice has been to include all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.¹⁸ Based on our definition of the domestic like product, we define one domestic industry consisting of all domestic producers of certain structural steel beams.¹⁹

III. CUMULATION

A. 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 assess cumulatively the volume and effect of imports of the subject merchandise from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with the domestic like product in the U.S. market.²⁰ In assessing whether subject imports compete with each other and with the domestic like product,²¹ the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;

¹⁸ 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).

¹⁹ We must further determine whether any producer of the domestic like products should be excluded from the domestic industries pursuant to section 771(4)(B) of the Act. 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 which are themselves importers. 19 U.S.C. § 1677(4)(B). Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case. See, e.g., Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd mem., 904 F.2d 46 (Fed. Cir. 1990). Petitioners identified domestic producer *** as a potential related party, but no party argued that appropriate circumstances exist to exclude any producer from the domestic industry. See, e.g., Petitioners' Postconference Brief at Exhibit 1 at 2-3. ***'s parent company *** has another subsidiary, ***, that imported subject structural steel beams during the period of investigation, but there is no other information regarding their relationship or any other information on which to base a decision to exclude *** as a related party from the domestic industry. Accordingly, we do not exclude *** from the domestic industry as a related party.

²⁰ 19 U.S.C. § 1677(7)(G)(i).

²¹ The SAA at 848 expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition," citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

- (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.²²

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.²³ Only a “reasonable overlap” of competition is required.²⁴

B. Analysis

We have determined to cumulate the subject imports from all eight subject countries. The petitions were filed on the same day, so the first statutory criterion for cumulation is satisfied. In addition, none of the four statutory exceptions to the general cumulation rule applies for purposes of these determinations.²⁵ We also find that there is a reasonable overlap of competition among imports from each of the subject countries and between subject imports and the domestic like product, so the second statutory criterion for cumulation also is satisfied.²⁶ The record indicates that the subject imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan are highly fungible with each other and with the domestic like product.²⁷ In this regard, structural steel beams sold in the U.S. market – whether subject or domestic – meet the standards maintained by the American Society of Testing and Materials (“ASTM”). Although certain subject or domestic producers may supply a few products in limited quantities that differ from those supplied by other subject or domestic producers, the record indicates a substantial overlap in the types of products being supplied from all subject countries and by the domestic producers.²⁸ Structural steel beams from all subject countries are commingled in inventory with one another and the domestic like product, except to the extent that some of the domestically produced structural steel beams are kept

²² See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278 to 280 (Final), USITC Pub. 1845 (May 1986), aff’d, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

²³ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

²⁴ See Goss Graphic System, Inc. v. United States, 33 F. Supp.2d 1082, 1087 (Ct. Int’l Trade 1998) (“cumulation does not require two products to be highly fungible”); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

²⁵ These exceptions concern imports from Israel, countries as to which investigations have been terminated, 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).

²⁶ None of the parties argued that the Commission should not cumulate subject imports for purposes of any present material injury determination. See, e.g., Conference Tr. at 123-25; Petitions at 9-12, Exhibits I-9; Petitioners’ Postconference Brief at 13, and Exhibits 1-F, 1-H, 1-I, 1-K, 1-L.

²⁷ See, e.g., CR at II-4 to II-6; PR at II-3 to II-5; CR/PR at Tables II-1; II-2; Conference Tr. at 29, 78; Petitioners’ Postconference Brief at Exhibit 1 at 7-10.

²⁸ See, e.g., Petitioners’ Postconference Brief at Exhibit 1 at 7-10, Exhibit 22; Highveld Steel and Vanadium Corporation, Ltd. (“Highveld’s”) Postconference Brief at Exhibit 9; Aceralia Productos Largos S.A. (“Aceralia’s”) Postconference Brief at Exhibit 5; Salzgitter AG Stahl und Technologie (“Salzgitter’s”) Postconference Brief at Exhibit M; ARBED’s Postconference Brief at Exhibit 8.

separate for use in Buy American provision jobs.²⁹ Questionnaire responses indicate that the imports from the subject countries are viewed as interchangeable with the domestic like product and with each other.³⁰ The record demonstrates that appreciable quantities of subject imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan and the domestic like product were present throughout the period of investigation in the same geographic markets.³¹ The record also demonstrates that subject imports and the domestic like product are generally sold through the same channels of distribution – specifically, distributors.³²

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF CUMULATED SUBJECT IMPORTS THAT ARE ALLEGEDLY SOLD AT LESS THAN FAIR VALUE

In the preliminary phase of an antidumping duty investigation, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.³³ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.³⁴ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”³⁵ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United

²⁹ See, e.g., Conference Tr. at 133-34.

³⁰ All responding domestic producers reported that subject imports are “always” interchangeable with the domestic like product, and the majority of responding importers indicated that subject imports are “always” or “frequently” interchangeable with the domestic like product. Several domestic producers noted that Buy American restrictions affect a small percentage of products and one domestic producer and one importer reported that ProfilARBED produces some products not produced in the United States. All responding domestic producers reported that factors other than price are “sometimes” or “never” important in sales of structural steel beams in the U.S. market; responding importers were fairly evenly divided on this question, with a majority reporting that factors other than price are “frequently” or “sometimes” important in sales of structural steel beams in the U.S. market. CR at II-4, II-5; PR at II-3; CR/PR at Tables II-1, II-2.

³¹ See, e.g., Petitions at Exhibit I-9; Conference Tr. at 48-50; Petitioners’ Postconference Brief at Exhibit 1 at 5, Exhibit 21.

³² Fifty-eight percent of domestic producers’ sales were to distributors in 2000, and the remainder were direct sales to fabricators. Sales to distributors accounted for the following percentages of total sales from each of the subject countries: China *** percent; Germany *** percent; Italy *** percent; Luxembourg *** percent; Russia *** percent; South Africa *** percent; Spain *** percent; and Taiwan *** percent; the remainder were direct sales to fabricators. See, e.g., Conference Tr. at 87, 105-06; CR at I-6 to I-7; PR at I-5; Mem. INV-Y-131 (July 6, 2001); Importers’ Questionnaire Responses.

³³ 19 U.S.C. §§ 1671b(a) and 1673b(a).

³⁴ 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).

³⁵ 19 U.S.C. § 1677(7)(A).

States.³⁶ 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.”³⁷

For the reasons discussed below, we find that there is a reasonable indication that the domestic industry producing structural steel beams is materially injured by reason of cumulated subject imports.

A. Conditions of Competition

A number of conditions of competition are relevant to our analysis in these investigations.

Structural steel beams are used as load-bearing support in a range of applications, principally including buildings, bridges, towers, pre-manufactured houses, railroad rolling stock, ships, and original equipment manufacturing applications. The majority of responding domestic producers and importers estimated that structural steel beams account for between 2.0 percent and 15.0 percent of the total cost of the end-use applications.³⁸ Although they are available in a range of overlapping sizes, unit weights, and cross-sectional profiles, structural steel beams generally are sold in one of four standard profile shapes indicated by letter designations (“W” shapes; “HP” shapes; “S” shapes; and “M” shapes). Structural steel beams are mainly used in steel structure construction, and are sold either as-is or in various degrees of partial fabrication.³⁹ While nearly one-half of the questionnaire responses of domestic producers and importers reported that there are no practical substitutes for structural steel beams in construction applications, some reported that concrete may be substituted at the design phase.⁴⁰ The parties agreed that structural steel beams were used in about 48 percent of construction projects during the period of investigation.⁴¹

Apparent domestic consumption of structural steel beams fluctuated but generally increased over the period of investigation, declining from 5.9 million short tons in 1998 to 4.8 million short tons in 1999, before increasing to 6.2 million short tons in 2000; apparent domestic consumption in interim 2001 was 1.2 million short tons compared to 1.5 million short tons in interim 2000.⁴²

The composition of the suppliers to the U.S. market changed during the period of investigation. Foreign producers that supplied the U.S. market with structural steel beams in the early part of the period of investigation became subject to an antidumping duty order in June 2000 (Japan) and antidumping and countervailing duty orders in August 2000 (Korea).⁴³ Although nonsubject imports were present in the

³⁶ 19 U.S.C. § 1677(7)(C)(iii).

³⁷ 19 U.S.C. § 1677(7)(C)(iii).

³⁸ CR at II-4; PR at II-3.

³⁹ CR at I-4; PR at I-3.

⁴⁰ In addition to the relative prices and availability of the two basic materials, the choice also depends on the requirements of the project and the skills, experience, and preference of the developers, architects, and engineers participating in the project, as well as upon other costs and the required speed of completion.

⁴¹ See, e.g., CR at II-3; PR at II-2 to II-3; Conference Tr. at 10-11, 103; Duferdofin, L.p.A. (“Italian Respondent’s”) Postconference Brief at 7-8; Petitioners’ Postconference Brief at 8.

⁴² CR/PR at Tables IV-3, C-1. From 1998 to 2000, apparent domestic consumption increased in value 5.1 percent. It decreased from \$2.26 billion in 1998 to \$1.58 billion in 1999 before increasing to \$2.37 billion in 2000. Apparent domestic consumption, by value, was \$422 million in interim 2001 compared to \$582 million in interim 2000. CR/PR at Tables IV-3, C-1.

⁴³ See, e.g., 65 Fed. Reg. 37960 (June 19, 2000) (Japanese antidumping duty order); 65 Fed. Reg. 49542 (Aug. 14, 2000) (Korean countervailing duty order); 65 Fed. Reg. 50502 (Aug. 18, 2000) (Korean antidumping duty order).

U.S. market throughout the period of investigation, their volume declined progressively.⁴⁴ Nonsubject imports' share of apparent domestic consumption also decreased throughout the period of investigation.⁴⁵ Thus, shipments from domestic producers as well as subject imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan supplied the overwhelming majority of the U.S. market during the latter portion of the period of investigation.⁴⁶

Two domestic producers, Nucor and TXI-Chapparral, started new production facilities during the period of investigation, but the new facilities were not fully operational when the antidumping duty order on imports from Japan and the antidumping and countervailing duty orders on imports from Korea went into effect. In addition, domestic producer Northwestern permanently closed in May 2001. Overall, the domestic industry's capacity increased during the period of investigation.⁴⁷ Notwithstanding petitioners' arguments to the contrary,⁴⁸ the record indicates instances of tight supply in the U.S. market in recent years, including in late 1999 and early 2000, when domestic producers were not able to supply sufficient structural steel beams to meet apparent domestic consumption.⁴⁹ In any final phase of these investigations, we intend to explore the length and the magnitude of these supply conditions including the extent to which the volume of subject imports met or exceeded the shortfall.

With respect to sales practices in the U.S. market, domestically produced and imported structural steel beams are sold to both distributors (primarily steel service centers) and end users (primarily fabricators) via spot sales rather than contracts. Builders purchase structural steel beams from steel fabricators that process the beams for each project. Fabricators do not generally carry significant inventories, preferring to order structural steel beams for each job directly from domestic mills and to turn to service centers when a specific product is not available from the mill; service centers primarily purchase for inventory.⁵⁰ Domestic producers typically sell structural steel beams at published prices and seldom negotiate specific transactions; their products are sold at the same price to both fabricators and service centers. Fifty-eight percent of domestic producers' shipments of structural steel beams were to distributors

⁴⁴ The volume of nonsubject imports declined from 1.5 million short tons in 1998 to 0.6 million short tons in 1999, and decreased again to 0.4 million short tons in 2000; the volume of nonsubject imports was 27,290 short tons in interim 2001 compared to 117,065 short tons in interim 2000. CR/PR at Tables IV-1, C-1. By value, nonsubject imports decreased from \$514.2 million in 1998 to \$167.7 million in 1999 to \$147.1 million in 2000, and they were \$9.9 million in interim 2001 compared to \$39.5 million in interim 2000. CR/PR at Tables IV-1, C-1.

⁴⁵ Nonsubject imports' market share declined from 25.8 percent in 1998 to 6.4 percent in 2000 and from 7.6 percent in interim 2000 to 2.3 percent in interim 2001. CR/PR at Tables IV-3, C-1.

⁴⁶ CR/PR at Table IV-3.

⁴⁷ The domestic industry's capacity increased from 4.6 million short tons in 1998 to 6.3 million short tons in 2000; the domestic industry's capacity in interim 2001 was 1.56 million short tons compared to 1.57 million short tons in interim 2000. CR/PR at Table III-2, C-1.

⁴⁸ See, e.g., Conference Tr. at 51-60.

⁴⁹ Evidence of the late 1999/early 2000 supply limitations includes domestic producers' controlled order entry practices; quarterly AISC Business Barometer reports; the American Institute of Imported Steel's Steel Import Market Survey for February/March 2000; letters to customers from Nucor-Yamato; various newspaper articles; and testimony of petitioners' witnesses about extended lead times and the unavailability of particular sizes. Conference Tr. at 87-89, 97-98, 134-38; ARBED's Postconference Brief at 4-9, 11; Aceralia's Postconference Brief at 1; Highveld's Postconference Brief at 2-3; Tung Ho Steel Enterprise Corporation's ("Tung Ho") Postconference Brief at 2-3, 7, Exhibit E; Salzgitter's Postconference Brief at 2-3, 7, Exhibit E; Italian Respondent's Postconference Brief at 9-11.

⁵⁰ See, e.g., CR at I-6 to I-7, II-1, V-6; PR at I-5, II-1, V-6; Conference Tr. at 89-90; Italian Respondent's Brief at 4-5.

compared to 88 percent of subject imports.⁵¹ Long delivery lead times generally make the subject producers' products impractical for direct sale to fabricators.⁵² Fabricators obtain cut-to-length sizes of structural steel beams directly from domestic producers whereas the products they obtain from service centers must be purchased in set lengths, which is less economical due to the "drop" or wasted portion.⁵³

1. Volume of 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."⁵⁴

Apparent domestic consumption increased overall during the period of investigation.⁵⁵ Cumulated subject imports captured a growing share of this growing market during the period of investigation. The volume and value of cumulated subject imports of structural steel beams rose over the period of investigation, as did their market share.⁵⁶ Although the volume of subject imports, by quantity, decreased between 1998 and 1999, it increased in 2000.⁵⁷ Likewise, although the market share for subject imports, by quantity, decreased between 1998 and 1999, it increased in 2000.⁵⁸ Moreover, while the absolute level of subject import shipments in interim (January to March) 2001 was lower than the level in interim 2000, subject imports' market share in interim 2001 was higher than the level in interim 2000.⁵⁹

⁵¹ See, e.g., Mem. INV-Y-131; CR at I-6 to I-7; PR at I-5; Petitions at 10-11, Exhibits I-11 to I-12; Conference Tr. at 63, 74-75, 87; Petitioners' Postconference Brief at 8-9.

⁵² See, e.g., Conference Tr. at 89, 98, 114; Tung Ho's Postconference Brief at 2; Salzgitter's Postconference Brief at 2. Sales of subject imports take place before the structural steel beams are shipped to the United States, and the lead time for delivery of subject imports reportedly is 90 to 150 days.

⁵³ In the past, the Commission has found that these and other non-price factors, such as delivery, reliability, transportation, bundling, and marketing, result in the domestic like product selling for a price premium over subject imports. See Certain Structural Steel Beams from Japan, Inv. No. 731-TA-853 (Final), USITC Pub. 3308 at 9 (June 2000); see also, e.g., Conference Tr. at 87, 91-94, 103; ARBED's Postconference Brief at 2-4; Aceralia's Postconference Brief at 1; Italian Respondent's Postconference Brief at 4-5. In any final phase of these investigations, we will examine the extent to which timing and delivery factors are important to purchasers and the extent to which these and other factors affect prices.

⁵⁴ 19 U.S.C. § 1677(7)(C)(i).

⁵⁵ CR/PR at Tables IV-3, C-1.

⁵⁶ CR/PR at Tables IV-1, IV-3, C-1.

⁵⁷ The volume of subject imports, by quantity, decreased from 616,928 short tons in 1998 to 356,436 short tons in 1999, it increased to 884,555 short tons in 2000. CR/PR at Tables IV-1, C-1. The value of cumulated subject imports followed similar trends, decreasing from \$226.2 million in 1998 to \$108.3 million in 1999 but increasing to \$322.5 million in 2000; the value of cumulated subject imports in interim 2001 was \$47.2 million compared to \$58.3 million in interim 2000. CR/PR at Tables IV-1, C-1.

⁵⁸ Subject imports' market share, by quantity, decreased from 10.5 percent in 1998 to 7.4 percent in 1999, but it increased to 14.4 percent in 2000. CR/PR at Tables IV-3, C-1.

⁵⁹ Subject imports in interim 2001 were 134,496 short tons compared to 163,326 short tons in interim 2000, and subject imports' market share in interim 2001 (11.3 percent) was higher than the level in interim 2000 (10.6 percent). CR/PR at Tables IV-1, IV-3, C-1. By value, import market share for subject structural steel beams followed similar trends, decreasing from 10.0 percent in 1998 to 6.8 percent in 1999 but increasing to 13.6 percent in 2000; in interim 2001, it was 11.2 percent compared to 10.0 percent in interim 2000. CR/PR at Tables IV-3, C-1.

During the period of investigation, domestic producers' U.S. shipments of structural steel beams increased each year between 1998 and 2000, but the level of domestic producers' U.S. shipments in interim 2001 was lower than in interim 2000.⁶⁰ In contrast, domestic producers' market share, by quantity, increased between 1998 and 1999, but remained essentially level in 2000; their market share in interim 2001 was higher than in interim 2000.⁶¹ The volume of nonsubject imports declined both absolutely and as a share of apparent domestic consumption during the period of investigation.

Thus, the record shows an increase in subject imports over the period of investigation, including a 148.2 percent increase in the absolute level of subject imports between 1999 and 2000, and a corresponding increase (nearly doubling) of subject import market share during that period, as well as a higher level of market share attributable to subject imports in interim 2001 compared to interim 2000. These increases coincided with the near exodus of nonsubject imports from the market; thus, domestic producers' market share remained level. For purposes of these preliminary determinations, we find the increase in the volume of subject imports to be significant in absolute terms and relative to apparent consumption in the United States. In any final phase of these investigations, we intend to explore the extent to which subject imports captured market share from nonsubject imports and responded to demand that domestic producers were unable to supply.

2. Price Effects of Cumulated Subject Imports

Section 771(7)(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.⁶²

The record reflects a high degree of substitutability between domestic structural steel beams and subject imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan, all of which are produced to ASTM standards. Questionnaire responses indicate that, in general, domestic producers believe that differences in price between structural steel beam products from various supplying countries are more important than differences in other sales factors in the U.S. market, but importers'

⁶⁰ Domestic producers' U.S. shipments increased from 3.7 million short tons in 1998 to 3.9 million short tons in 1999 and 4.9 million tons in 2000, and in interim 2001 were 1.0 million short tons compared to 1.3 million short tons in interim 2000. CR/PR at Tables III-2, C-1. By value, domestic producers' U.S. shipments decreased from \$1.5 billion in 1998 to \$1.3 billion in 1999 before increasing to \$1.9 billion in 2000; domestic producers' U.S. shipments in interim 2001 were \$365 million compared to \$484 million in interim 2000. CR/PR at Tables III-2, C-1.

⁶¹ Domestic producers' market share increased from 63.7 percent in 1998 to 80.4 percent in 1999, but their market share remained essentially level at 79.3 percent in 2000; in interim 2001, domestic producers' market share, by quantity, was 86.4 percent compared to 81.7 percent in interim 2000. CR/PR at Tables IV-3, C-1. Market share of domestic producers, by value, increased from 67.2 percent in 1998 to 82.6 percent in 1999, then declined slightly to 80.2 percent in 2000. In interim 2001, their share was 86.5 percent compared to 83.2 percent in interim 2000. CR/PR at Tables IV-3, C-1.

⁶² 19 U.S.C. § 1677(7)(C)(ii).

questionnaire responses were more mixed.⁶³ For purposes of these preliminary determinations, we find price to be an important factor in purchasing decisions, but we will examine in any final phase of these investigations the extent to which non-price factors such as timing, delivery, and U.S. inland transportation costs affect competition between subject imports and the domestic like product in the U.S. market.

To evaluate the price effects of subject imports, the Commission requested domestic producers and importers to provide quarterly quantity and value data for sales in the U.S. market between January 1998 and March 2001 for four structural steel beam products identified in the petitions. Eight domestic producers and 12 importers provided usable pricing data for sales of the requested products in the U.S. market.⁶⁴ With respect to sales of the domestic like product and subject imports, these data generally showed price declines in 1998 and 1999, price increases beginning in late 1999/early 2000, then price declines toward the latter part of 2000 and first quarter 2001.⁶⁵ In most instances, the prices at the end of the period of investigation were lower than at the beginning of the period of investigation, but during the earlier portions of 2000, pricing levels did sometimes return to the pricing levels at the beginning of the period of investigation.⁶⁶ Subject imports oversold the domestic like product in 97 quarters and undersold the domestic like product in 74 quarters.⁶⁷

Petitioners argued that prices in the U.S. market during the period of investigation experienced downward pressure from subject imports both contemporaneously and with a lagged effect due to a build-up of subject imports in inventory.⁶⁸ Respondents contended that there is no causal link between subject imports and structural steel beam prices in the U.S. market, alleging that: (1) subject imports simply filled a supply gap in early- to mid-2000 and did so at relatively high prices, (2) the majority of inventory accumulation was domestically produced structural steel beams, and (3) domestic capacity increased at a point when structural steel beam demand was beginning to soften, thus putting short-term downward pressure on structural steel beam prices until supply and demand regained equilibrium.⁶⁹

While prices did decline in 2000 as imports from several of the subject countries reduced their presence in the U.S. market during the latter part of 2000 and in interim 2001, several domestic producers have recently announced price increases or reduction of price incentive programs.⁷⁰ Further, we are mindful of the anecdotal evidence on the record attributing negative price effects to subject imports,

⁶³ CR at II-4 to II-6; PR at II-3 to II-5.

⁶⁴ CR at V-6; PR at V-6. The pricing data accounted for approximately 62.0 percent of the 2000 value of domestic producers' commercial shipments of structural steel beams, as well as *** percent of the 2000 landed, duty-paid value of subject imports from China, *** percent of subject imports from Germany, *** percent of subject imports from Luxembourg, *** percent of subject imports from Russia, *** percent of subject imports from South Africa, and *** subject imports from Italy, Spain, and Taiwan. CR at V-6 to V-7; PR at V-6. We relied on the pricing data that included ***'s reported information. Staff confirmed that these data did not include extraneous grades, ***. See, e.g., CR at V-7 n.2; PR at V-7 n.2. We acknowledge that if ***'s data were excluded from our analysis, the relative incidence of underselling would be ***.

⁶⁵ CR/PR at Tables V-1 to V-4.

⁶⁶ CR/PR at Tables V-1 to V-4.

⁶⁷ CR/PR at Tables V-1 to V-5.

⁶⁸ See, e.g., Petitions at 14-15, Exhibit I-11; Conference Tr. at 12-17, 22, 24-25, 27, 29, 30, 32-46, 93-94; Petitioners' Postconference Brief at 9-10, 14-25, Exhibits 1, 3, 11A, 11B and 17.

⁶⁹ See, e.g., Conference Tr. at 87-89, 97-98, 134-38, ARBED's Postconference Brief at 4-9, 11, 26-28; Aceralia's Postconference Brief at 1; Highveld's Postconference Brief at 2-3, 6; Tung Ho's Postconference Brief at 2-3, 7, Exhibit E, Salzgitter's Postconference Brief at 2-3, 7, Exhibit E; Italian Respondent's Postconference Brief at 1-2, 9-21; CR at V-7; PR at V-7.

⁷⁰ CR at V-8; PR at V-7.

including domestic producers' letters to customers announcing price decreases and purchasing incentive programs, affidavits from domestic producers and ***, as well as conference testimony by representatives of domestic producers, steel service centers and fabricators.⁷¹ In any final phase of these investigations, we intend to seek more complete pricing information and to examine closely the relationship between pricing trends and imports from the subject countries. We also intend to explore the extent to which increasing domestic capacity and competition among the domestic producers and falling demand affected prices during the period of investigation.⁷²

3. Impact of Cumulated Subject Imports^{73 74}

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.⁷⁵ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."⁷⁶

Overall, the period of investigation was marked by a number of changes as imports from Japan and Korea largely left the market, domestic producers began ramping up production at new facilities ***, and Northwestern permanently closed its operations. The record in the preliminary phase of these investigations shows that some domestic industry performance indicators were improving or unchanged during the period of investigation. More importantly, however, other important performance indicators declined, particularly during the latter part of the period of investigation as prices in the U.S. market fell

⁷¹ See, e.g., Petitions at 14-15, Exhibit I-11; Conference Tr. at 12-17, 22, 24-25, 27, 29, 30, 32-46, 93-94; Petitioners' Postconference Brief at 9-10, 14-25, Exhibits 1, 3, 11A, 11B and 17.

⁷² Commissioner Bragg finds that the limited information on the record indicates significant negative price effects by the subject imports on prices for the domestic like product. She notes that there is very limited coverage of subject imports from Russia in the pricing data. CR at V-7 & n.1; PR at V-6 & n.1. Also, some of the data regarding subject imports from *** consist of estimated quantities and prices, resulting in identical quarterly pricing within a given year. CR/PR at Tables V-1 to V-4.

⁷³ The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its notice of initiation, Commerce recalculated the alleged dumping margins as follows: 98.77 percent for the People's Republic of China; 61.09 to 94.73 percent for Germany; 83.80 percent for Italy; 38.45 to 44.43 percent for Luxembourg; 133.12 percent for Russia; 73.54 to 81.06 percent for South Africa; 81.67 to 94.93 percent for Spain; and 45.72 to 73.64 percent for Taiwan. 66 Fed. Reg. 33048 (June 20, 2001).

⁷⁴ Commissioner Bragg notes that she does not ordinarily consider the magnitude of dumping to be of particular significance in evaluating the effects of subject imports on the domestic products. 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); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Preliminary), USITC Pub. 3345 (Sept. 2000) at 11 n.63.

⁷⁵ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." *Id.* at 885).

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

and domestic producers experienced lower unit values and declining capacity utilization due to declining production volumes.

Ten domestic producers accounting for all known domestic production of structural steel beams in 2000 provided data on their operations.⁷⁷ Domestic production of structural steel beams steadily increased between 1998 and 2000, but was lower in interim 2001 than interim 2000.⁷⁸ The domestic industry's capacity increased each year between 1998 and 2000; capacity in interim 2001 was approximately the same as in interim 2000.⁷⁹ The new capacity added to the domestic industry during the period of investigation^{80 ***}.⁸¹

The domestic industry's capacity utilization fell between 1998 and 1999, but then increased between 1999 and 2000; capacity utilization in interim 2001, however, was lower than in interim 2000.⁸² Petitioners attributed the interim 2001 decline in capacity utilization to subject imports, but the record indicates that at least a portion of the declines may be attributable to the ramping up of production at new facilities and declining demand.⁸³

Other indicators of the condition of the domestic industry showed either a steady increase from 1998 to 2000 (production workers, hourly wages, U.S. shipments, and net sales),⁸⁴ or followed the same trends as apparent domestic consumption,⁸⁵ declining from 1998 to 1999, then increasing in 2000

⁷⁷ CR at VI-1; PR at VI-1.

⁷⁸ Domestic production increased from 3.9 million short tons in 1998 to 4.0 million short tons in 1999 and to 5.1 million short tons in 2000; domestic production of structural steel beams was 1.1 million short tons in interim 2001 compared to 1.3 million short tons in interim 2000. CR/PR at Tables III-2, C-1.

⁷⁹ Capacity increased from 4.6 million short tons in 1998 to 5.4 million short tons in 1999 to 6.3 million short tons in 2000; capacity in interim 2001 was slightly lower than in interim 2000. CR/PR at Tables III-2, C-1.

⁸⁰ Domestic industry capacity increases were due to the addition of new capacity as well as the modernization of existing facilities. Steel of West Virginia ***. CR at III-2 to III-3; PR at III-3. ***. CR at III-3; PR at III-2. Nucor added *** short tons of capacity during December 1998 with its new Berkeley plant in South Carolina that became fully operational by fourth quarter 1999 and that now has an annual capacity of *** short tons. CR at III-3; PR at III-2. Finally, TXI Chapparral opened a new facility in Petersburg, Virginia, with an overall capacity of *** short tons. CR at III-3; PR at III-2 to III-3.

⁸¹ CR at III-3; PR at III-3.

⁸² Capacity utilization declined from 84.4 percent in 1998 to 73.8 percent in 1999 but then increased to 81.0 percent in 2000; capacity utilization was 70.9 percent in interim 2001 compared to 82.9 percent in interim 2000. CR/PR at Tables III-2, C-1.

⁸³ For example, company officials indicated that TXI-Chapparral's Petersburg facility was operating ***, but the record also reflects that the Petersburg facility has experienced a number of internal problems coming on-line, and this is consistent with ***. CR at III-3, III-4; PR at III-2 to III-3. Domestic producer Northwestern reported that its May 2001 permanent closure was *** to subject imports. The record indicates that it filed for Chapter 11 bankruptcy in December 2000. Respondents argued that Northwestern closed because it was inefficient and was experiencing a critical shortfall in raw material supplies to maintain its electric furnace operations. CR at III-3; PR at III-3.

⁸⁴ Production workers in the domestic industry increased from 2,194 in 1998 to 2,643 in 1999 and to 3,055 in 2000. CR/PR at Tables III-2, C-1. Hourly wages increased from \$25.33 in 1998 to \$25.85 in 1999 and to \$27.44 in 2000. CR/PR at Tables III-2, C-1. Domestic producers' U.S. shipments increased from 3.7 million short tons in 1998 to 3.9 million short tons in 1999 and 4.9 million tons in 2000. CR/PR at Tables III-2, C-1. By value, domestic producers' U.S. shipments decreased from \$1.5 billion in 1998 to \$1.3 billion in 1999 before increasing to \$1.9 billion in 2000. CR/PR at Tables III-2, C-1.

⁸⁵ Apparent domestic consumption declined from 5.9 million short tons in 1998 to 4.8 million short tons in

(continued...)

(productivity, unit cost of goods sold).⁸⁶ ⁸⁷ The industry recorded substantial operating income in 2000.⁸⁸ Overall, industry performance in 2000 was robust.⁸⁹

Most indicators declined in interim 2001 compared to interim 2000. The number of production related workers, hourly wages, U.S. shipments by quantity and value, productivity, net sales by quantity and value, and unit cost of goods sold were all less favorable in interim 2001 than in interim 2000.⁹⁰ Operating income fell significantly between interim periods, as did the ratio of operating income to net

⁸⁵ (...continued)

1999 before increasing to 6.2 million tons in 2000. CR/PR at Tables IV-3, C-1. From 1998 to 2000, apparent domestic consumption increased in value by 5.1 percent. It decreased from \$2.26 billion in 1998 to \$1.58 billion in 1999 before increasing to \$2.37 billion in 2000. CR/PR at Tables IV-3, C-1.

⁸⁶ Productivity fell from 0.84 short tons per hour in 1998 to 0.68 short tons per hour in 1999 and increased to 0.75 short tons per hour in 2000. CR/PR at Tables III-2, C-1. Domestic producers' net sales increased from 3.8 million short tons in 1998 to 4.0 million short tons in 1999 and to 4.9 million short tons in 2000. CR/PR at Tables VI-1, C-1. By value, the domestic industry's net sales decreased from \$1.5 billion in 1998 to \$1.4 billion in 1999 then increased to \$1.9 billion in 2000. CR/PR at Tables VI-1, C-1. Unit cost of goods sold declined from \$313.74 in 1998 to \$290.28 in 1999 then increased to \$314.12 in 2000. CR at VI-3; PR at VI-1; CR/PR at Table C-1.

⁸⁷ Capital expenditures fell each year between 1998 and 2000, but were higher in interim 2001 than in interim 2000. Capital expenditures fell from *** in 1998 to *** in 1999 and to \$59.0 million in 2000, but were higher in interim 2001 (\$9.6 million) than in interim 2000 (\$7.7 million). CR/PR at Table VI-4. Domestic producers' market share increased from 63.7 percent in 1998 to 80.4 percent in 1999, but their market share remained essentially level at 79.3 percent in 2000. CR/PR at Tables IV-3, C-1. Market share of domestic producers, by value, increased from 67.2 percent in 1998 to 82.6 percent in 1999, then declined slightly to 80.2 percent in 2000. CR/PR at Tables IV-3, C-1. Domestic producers' end-of-period inventories decreased from 373,211 short tons in 1998 to 366,861 short tons in 1999 but increased to 486,016 short tons in 2000. CR/PR at Tables III-2, C-1.

⁸⁸ Domestic producers' operating income decreased between 1998 and 1999 before increasing between 1999 and 2000 to a level that was higher than in 1998. Operating income decreased from \$292.2 million in 1998 to \$124.8 million in 1999 before increasing to \$296.4 million in 2000. CR/PR at Tables VI-1, C-1. Operating income margins were positive throughout the period of investigation, but followed the same trends as operating income. CR/PR at Tables VI-1, C-1. The ratio of the domestic industry's operating income to its sales decreased from 19.0 percent in 1998 to 9.2 percent in 1999 then increased to 15.4 percent in 2000. CR/PR at Tables VI-1, C-1.

⁸⁹ The petitioner argues that the industry's performance began to deteriorate in the latter part of 2000. The record does not contain data limited to the second half or fourth quarter of 2000. A comparison of data for first quarter 2000 with full year 2000 does not appear to bear out petitioner's claim.

⁹⁰ The level of production workers in the domestic industry was 2,698 in interim 2001 compared to 3,034 in interim 2000. CR/PR at Tables III-2, C-1. The record also indicates that ***. ***. Nucor and Nucor-Yamato have operated on a ***, and TXI-Chapparral reported ***. CR at III-3 to III-4; PR at III-3. Hourly wages in interim 2001 were \$27.97 compared to \$28.28 in interim 2000. CR/PR at Tables III-2, C-1. Domestic producers' U.S. shipments in interim 2001 were lower (1.0 million short tons) than in interim 2000 (1.3 million short tons). CR/PR at Tables III-2, C-1. By value, domestic producers' U.S. shipments in interim 2001 were \$365 million compared to \$484 million in interim 2000. CR/PR at Tables III-2, C-1. Productivity in interim 2001 was 0.75 short tons per hour compared to 0.80 short tons per hour in interim 2000. CR/PR at Tables III-2, C-1. Domestic producers' end-of-period inventories in interim 2001 (546,239 short tons) were higher than end-of-period inventories in interim 2000 (404,041 short tons). CR/PR at Tables III-2, C-1. Domestic producers' net sales of structural steel beams were 1.0 million short tons in interim 2001 compared to 1.3 million short tons in interim 2000. CR/PR at Tables VI-1, C-1. The domestic industry's net sales value was \$370.0 million in interim 2001 compared to \$491.0 million in 2000. CR/PR at Tables VI-1, C-1. Unit cost of goods sold in interim 2001 (\$317.66) was higher than in interim 2000 (\$311.69). CR at VI-3; PR at VI-1; CR/PR at Table C-1.

sales.⁹¹ The deterioration in financial results in interim 2001 compared to interim 2000 resulted both from a lower volume of sales and a lower unit value of sales. While the industry as a whole showed profitability throughout the period of investigation, we note that by interim 2001 **** of ten domestic producers were reporting operating losses.⁹²

This preliminary record therefore indicates that although some domestic industry performance indicators improved over the period of investigation, other important indicators declined, particularly toward the end of the investigation period. Therefore, for purposes of these preliminary determinations, and evaluating the industry as a whole, we conclude that subject imports have had a significant adverse impact on the domestic structural steel beams industry.⁹³

CONCLUSION

For the foregoing reasons, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of structural steel beams from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan that are allegedly sold in the U.S. market at less than fair value.

⁹¹ Domestic producers' operating income was lower in interim 2001 (\$24.3 million) than in interim 2000 (\$76.6 million). CR/PR at Tables VI-1, C-1. The ratio of the domestic industry's operating income to its sales was 6.6 percent in interim 2001 compared to 15.6 percent in interim 2000. CR/PR at Tables VI-1, C-1.

⁹² CR/PR at Table VI-1.

⁹³ Commissioner Bragg also refers to her footnote 72, supra.