

Public Version

DOC Investigation Nos. A-570-956 and
C-570-957
Total Pages: 248
Investigation
Business Proprietary Information is
deleted from pages ii, iv-vi, 3, 9, 11-14, 18-
27, 31, 33-36, 39-46, and Exhibits I-3 – I-8,
I-15, I-16, I-18 – I-27, I-36, I-51, and I-56 –
I-58

PUBLIC VERSION

**BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION**

**CERTAIN SEAMLESS CARBON AND ALLOY STEEL
STANDARD, LINE, AND PRESSURE PIPE FROM**

THE PEOPLE'S REPUBLIC OF CHINA

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED**

VOLUME I

COMMON ISSUES AND INJURY

Robert E. Lighthizer
James C. Hecht
Jeffrey D. Gerrish
Stephen P. Vaughn
Stephen J. Narkin
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7000
*Counsel to United States Steel
Corporation*

Roger B. Schagrin
SCHAGRIN ASSOCIATES
900 7th St. N.W. Suite 500
Washington, DC 20001
(202) 223-1700
Counsel to V&M Star L.P.

September 16, 2009

TABLE OF CONTENTS

LIST OF EXHIBITS.....	iv
I. COMMON ISSUES.....	2
A. The Name, Address, and Telephone numbers of the Petitioners (19 C.F.R. § 351.202(b)(1)).....	2
B. Identity of the Industry on Whose Behalf the Petition Is Filed (19 C.F.R. § 207.11(b)(2)(ii); 19 C.F.R. § 351.202(b)(2)).....	2
C. Information Relating to the Degree of Industry Support for the Petition (19 C.F.R. § 351.202(b)(3)).....	2
D. Previous Requests for Import Relief for the Merchandise (19 C.F.R. § 351.202(b)(4)).....	4
E. Scope of the Investigation and a Detailed Description of the Subject Merchandise (19 C.F.R. § 351.202(b)(5)).....	5
1. Scope of Investigation.....	5
2. Production Methodology.....	7
3. Tariff Classification.....	8
F. The Name of the Home Market Country and the Name of Any Intermediate Country Through Which the Merchandise Is Transshipped (19 C.F.R. § 351.202(b)(6)).....	9
G. The Names and Addresses of Each Person Believed to Sell the Merchandise at Less Than Normal Value and the Proportion of Total Exports to the United States (19 C.F.R. § 351.202(b)(7)(i)(A)).....	9
H. All Factual Information Related to the Calculation of Export Price and the Constructed Export Price of the Subject Merchandise and the Normal Value of the Foreign Like Product for Market Economy Countries (19 C.F.R. § 351.202(b)(7)(i)(B)).....	10
I. Factual Information Related to the Calculation of Normal Value of the Foreign Like Product in Non-Market Economy Countries (19 C.F.R. § 351.202(b)(7)(i)(C)).....	10
J. The Names and Addresses of Each Person Believed to Benefit from a Countervailable Subsidy Who Exports the Subject Merchandise to the United States and the Proportion of Total Exports to the United States (19 C.F.R. § 351.202(b)(7)(ii)(A)).....	10
K. The Alleged Countervailable Subsidy and Factual Information Relevant to the Alleged Countervailable Subsidy (19 C.F.R. § 351.202(b)(7)(ii)(B)).....	11
L. The Volume and Value of the Merchandise Imported During the Most Recent Three-Year Period (19 C.F.R. § 351.202(b)(8)).....	11
M. The Names and Addresses of Each Entity the Petitioner Believes Imports or Is Likely to Import the Merchandise (19 C.F.R. § 207.11(b)(2)(iii); 19 C.F.R. § 351.202(b)(9)).....	11

II.	INJURY	12	
A.	Introduction.....	12	
B.	The Domestic Like Product Consists of Seamless Pipe up to and Including 16 Inches in Outside Diameter.....	14	
C.	Subject Imports Are Causing Present Material Injury to the Domestic Industry	19	
1.	The Volume of Subject Imports Is Significant	19	
2.	The Price Effect of Subject Imports Is Significant	20	
3.	The Impact of the Subject Imports on the Domestic Industry Is Significant.....	23	
a.	A Flood of Chinese Imports in 2008 Created a [] Inventory Overhang	23	
b.	The Inventory Overhang Has Had Devastating Consequences for U.S. Producers and Workers	25	
c.	Due to Subject Imports, Petitioners Experienced Lost Sales and Revenues	26	
D.	Subject Imports Threaten Additional Material Injury to the Domestic Industry	26	
1.	Introduction.....	26	
2.	The Legal Standard	27	
3.	All Issues Relevant to the Commission’s Threat of Material Injury Analysis	Should be Considered in Light of the Current Economic Crisis	29
4.	Each of the Relevant Statutory Factors Weighs in Favor of a Finding that Chinese Imports Threaten the Domestic Industry with Additional Material Injury.....	32	
a.	China Encourages Exportation of Subject Merchandise Through Countervailable Subsidies.....	32	
b.	Chinese Producers Have Significant Volumes of Unused Capacity and Imminent, Substantial Increases in Production Capacity, Both of which Indicate the Likelihood of Substantially Increased Imports	33	
i.	Unused Capacity	33	
ii.	New Capacity	34	
iii.	Conclusion	39	
c.	The Significant Rate of Increase of the Volume and Market Penetration of Chinese Imports Supports a Finding of Threat of Material Injury	39	
d.	Chinese Imports Are Entering at Prices that Are Likely to Have a Significant Depressing or Suppressing Effect on Domestic Prices, and Are Likely to Increase Demand for Further Imports	40	

- e. Inventories of the Subject Merchandise Threaten the Domestic Industry with Additional Material Injury.....42
- f. The Potential for Product Shifting Is Significant.....43
- g. Chinese Imports Are Hindering the Existing Development and Production Efforts of the Domestic Industry45
- h. Other Demonstrable Adverse Trends Indicate the Probability that There Is Likely to Be Material Injury by Reason of Imports of the Subject Merchandise.....45
- 5. Conclusion46
- E. Conclusion47

LIST OF EXHIBITS

<u>Tab</u>	<u>Description</u>	<u>APO/Public</u>
I-1	List of Petitioners	Public
I-2	List of Non-Petitioners	Public
I-3	Petitioners' Production and Shipments	Public Version
I-4	Total U.S. Shipments of Subject Merchandise	Public Version
I-5	[]	Public Version
I-5	Petitioners' Shipment Totals []	Public Version
I-6	Industry Support with Adjusted Shipment Totals	Public Version
I-7	Industry Support	Public Version
I-8	Petitioners' Share of Industry Production	Public Version
I-9	Applicable Excerpts of 2007 Harmonized Tariff Schedule	Public
I-10	Revised Excerpts of 2008 and 2009 Harmonized Tariff Schedule	Public
I-11	Chinese Producers of seamless pipe	Public
I-12	Excerpts of 2006 Harmonized Tariff Schedule	Public
I-13	U.S. Imports of seamless pipe from China	Public
I-14	U.S. Importers of seamless pipe	Public
I-15	Petitioners' Trade Data	Public Version
I-16	Petitioners' Financial Data	Public Version
I-17	Q1 2007 IPSCO Earnings Conference Call and Webcast Final	Public
I-18	[]	Public Version
I-19	[]	Public Version
I-20	U.S. Market Share of Chinese Imports	Public Version
I-21	U.S. Imports of Chinese seamless pipe as a Percentage of U.S. Production	Public Version
I-22	Average Unit Value Comparison	Public Version
I-23	[]	Public Version
I-24	[]	Public Version
I-25	[]	Public Version
I-26	[]	Public Version

I-48	"Chinese seamless pipe export offers fall by \$200 per tonne," <i>Metal Bulletin</i> (Mar. 12, 2009)	Public
I-49	"China's seamless pipemakers slash offers by up to \$150," <i>Metal Bulletin Daily Alerts</i> (Apr. 15, 2009)	Public
I-50	"Notification Regarding Further Increase the Export Tax Rebate on Some Products"	Public
I-51	[]	Public Version
I-52	Canadian Border Services Agency, Statement of Reasons concerning the making of final determinations of dumping and subsidizing of Certain Seamless Carbon or Allow Steel Oil and Gas Well Casing from China (Feb. 22, 2008)	Public
I-53	Canadian Border Services Agency, Statement of Reasons concerning the initiation of investigations into the dumping and subsidizing of Certain Oil Country Tubular Goods from China (Sept. 8, 2009)	Public
I-54	"China job situation remains 'grave' – minister," Reuters (Sept. 9, 2009)	Public
I-55	WorldSteel, "Crude Steel Production" (June 2009)	Public
I-56	[]	Public Version
I-57	[]	Public Version
I-58	[]	Public Version

**BEFORE THE
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES AGAINST
CERTAIN SEAMLESS CARBON AND ALLOY STEEL
STANDARD, LINE, AND PRESSURE PIPE FROM
THE PEOPLE'S REPUBLIC OF CHINA**

These petitions are filed on behalf of United States Steel Corporation ("U. S. Steel") and V&M Star LP ("V&M") (collectively "Petitioners"). Petitioners allege that certain seamless carbon and alloy steel standard, line, and pressure pipe ("seamless pipe") imported from the People's Republic of China ("China") is being or is likely to be sold at less than normal value ("LTNV") within the meaning of sections 701 and 731 of the Tariff Act of 1930, *as amended* ("the Act"). *See* 19 U.S.C. § 1671 and § 1673 (2006). Petitioners also allege that these unfairly-traded imports have materially injured the United States domestic industry producing seamless pipe and threaten to cause further material injury if remedial action is not taken. These petitions contain information reasonably available to Petitioners in support of these allegations.

Separate volumes regarding the allegations of dumping by Chinese producers, as well as countervailable subsidies provided to Chinese producers, are being filed simultaneously at both the U.S. Department of Commerce (the "Department") and the U.S. International Trade Commission (the "Commission"). Petitioners request that antidumping and countervailing duties be imposed to offset the dumping and subsidy margins detailed in the specific antidumping and countervailing duty volumes.

I. COMMON ISSUES

This section contains information required in antidumping and countervailing duty petitions by 19 C.F.R. §§ 351.202(b)(1) to 351.202(b)(9) (2009) and 19 C.F.R. § 207.11 (2009).

A. The Name, Address, and Telephone numbers of the Petitioners (19 C.F.R. § 351.202(b)(1))

Petitioners consist of companies that produce the domestic like product in the United States. Accordingly, Petitioners are all domestic interested parties within the meaning of 19 U.S.C. § 1677(9) (2006) and 19 C.F.R. § 351.102(b) (2009). Petitioners' addresses and telephone numbers are provided in Exhibit I-1.

B. Identity of the Industry on Whose Behalf the Petition Is Filed (19 C.F.R. § 207.11(b)(2)(ii); 19 C.F.R. § 351.202(b)(2))

These petitions are filed on behalf of the United States industry that produces seamless pipe. The names, addresses, and telephone numbers of those domestic producers who are not Petitioners are provided in Exhibit I-2. According to the best information available to Petitioners, Exhibits I-1 and I-2 identify all known producers of subject merchandise in the United States.

C. Information Relating to the Degree of Industry Support for the Petition (19 C.F.R. § 351.202(b)(3))

According to the Act, a petition is filed by or on behalf of the domestic industry if: (1) domestic producers who support the petition account for at least 25 percent of the total production of the domestic like product, and (2) domestic producers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.¹ To the best of their knowledge, Petitioners meet both of these requirements.

¹ 19 U.S.C. §§ 1671a(C)(4)(A), 1673a(C)(4)(A) (2006).

Petitioners' production of subject merchandise from 2006 to 2008 can be found at Exhibit I-

3. Petitioners have estimated the quantity of subject merchandise produced by the entire U.S. domestic industry by using shipment data for calendar years 2006 to 2008 for seamless pipe as reported by []² Because there is []³ Petitioners believe that []

[] Furthermore, Petitioners have also estimated U.S. production by adjusting the volume of total domestic shipments reported in [] by the ratio of the difference between Petitioners' production and shipments in the applicable calendar year.⁴ Under either of these methodologies, Petitioners' share of U.S. production of seamless pipe exceeded 50 percent during every calendar year from 2006 to 2008.⁵

² Petitioners estimated shipment data as follows. They added together [] data for shipments of domestic seamless line pipe and domestic seamless standard pipe. Then they subtracted []

[] See Exhibit I-4. The remaining total represents all U.S. shipments of seamless pipe up to and including 16 inches in outside diameter reported by []

[] also reports shipments of [] But it appears that this category relates to [] See []

[] Accordingly, Petitioners have not included []

[] Nevertheless, it should be pointed out that even if those sales *were* considered as domestic shipments of the subject product, Petitioners' share of U.S. production would still exceed 50 percent during every calendar year from 2006 to 2008. See Exhibit I-6.

³ See Exhibit I-3.

⁴ See Exhibit I-7.

⁵ See Exhibit I-7 & Exhibit I-8.

D. Previous Requests for Import Relief for the Merchandise (19 C.F.R. § 351.202(b)(4))

Petitioners have not filed for relief from imports of the subject merchandise under Section 337 of the Act,⁶ Section 301 of the Trade Act of 1974,⁷ or Section 232 of the Trade Expansion Act of 1962.⁸

On June 22, 2001, the Commission instituted a safeguard investigation under Section 201 of the Trade Act of 1974,⁹ following receipt of a request from the United States Trade Representative to determine whether certain steel products, including seamless pipe, were being imported into the United States in such increased quantities to be a substantial cause of serious injury, or threat thereof, to domestic industries producing articles like or directly competitive with the imported article.¹⁰ The Commission also received a resolution with a similar request from the Senate Finance Committee.¹¹ On December 20, 2001, the Commission issued its determination and remedy recommendations. The Commission reached a negative determination with respect to seamless pipe products other than oil country goods – a category that covers all of the imports subject to these petitions.¹²

⁶ 19 U.S.C. § 1337 (2006).

⁷ *Id.* at § 2411.

⁸ *Id.* § 1862.

⁹ *Id.* § 2251.

¹⁰ *See Steel*, USITC Pub. 3479, Inv. No. TA-201-73 (Dec. 2001) (hereinafter "*Steel*") at 28.

¹¹ *See Consolidation of Senate Finance Committee Resolution Requesting a Section 201 Investigation with the Investigation Requested by the United States Trade Representative on June 22, 2001*, 66 Fed. Reg. 44158 (Aug. 22, 2001).

¹² *Steel* at 18.

E. Scope of the Investigation and a Detailed Description of the Subject Merchandise (19 C.F.R. § 351.202(b)(5))

1. Scope of Investigation

The products covered by these petitions are:

Seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the American Society for Testing and Materials ("ASTM") A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and the American Petroleum Institute ("API") 5L specifications and meeting the physical parameters described below, regardless of application, with the exception of the exclusions discussed below. The scope of these investigations also includes all other products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification, with the exception of the exclusions discussed below.

Specifically included within the scope are seamless pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (bare, lacquered or coated).

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas, and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A-106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers ("ASME") code stress levels. Alloy pipes made to ASTM A-335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A-106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A-53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A-333 or ASTM A-334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A-589) and seamless galvanized pipe for fire protection uses (ASTM A-795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53, API 5L-B, and API 5L-X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary applications of ASTM A-106 pressure pipes and triple or quadruple certified pipes are: (1) use in oil and gas distribution lines for commercial applications; (2) use in pressure piping systems by refineries, petrochemical plants, and chemical plants; (3) use in power generation plants (electrical-fossil fuel or nuclear) and (4) use in some oil field uses (on shore and off shore) such as for separator lines, gathering lines, and metering runs. These applications constitute the majority of the market for the subject seamless pipe. However, ASTM A-106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or "hollow profiles" of carbon or alloy steel transformed by hot rolling or cold drawing / hydrostatic testing or other methods to enable the material to be sold under ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications.

The scope of these investigations includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the specific exclusions discussed below, whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of these investigations. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A-106 applications. These specifications generally include ASTM A-161, ASTM A-192, ASTM A-210, ASTM A-252, ASTM A-501, ASTM A-523, ASTM A-524, and ASTM A-618. When such pipes are used in a standard, line, or pressure pipe application, with the exception of the specific exclusions discussed below, such products are covered by the scope of these investigations.

Specifically excluded from the scope of this order are:

- A. Boiler tubing and mechanical tubing, if such products are not produced to ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications and are not used in standard, line, or pressure pipe applications.
- B. Finished and unfinished oil country tubular goods ("OCTG"), if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in the scope when used in standard, line, or pressure applications.

2. Production Methodology.¹³

Seamless pipe is manufactured by either of two high-temperature processes to form a central cavity in a solid steel billet: the rotary piercing process or the extrusion process. In the rotary piercing process, a heated billet is gripped by angled rolls, which cause the billet to rotate and advance over a piercer point, forming a hole through its length. In the extrusion process, the billet is hot-punch pierced and then extruded axially through a die and over a mandrel, forming a hollow shell. The hollow shell produced by either process is then rolled with either a fixed plug or a continuous mandrel inside the shell to reduce the wall thickness and increase the length. The shell is then rolled in a sizing mill or a stretch reduction mill where the shell is formed in a true round and sized to the specified diameter.

Whereas seamless pipe is normally produced hot-finished, seamless pipe of less than two inches in outside diameter is frequently cold drawn because hot-rolling of such pipe is often not possible. Pipe also may be cold drawn to provide a smoother surface and closer dimensional tolerances than that which can be produced by hot finishing. When pipe is to be cold drawn, seamless hollows (redraw hollows) are first pickled in acid to remove scale and oxides from both the outside and inside surfaces. Redraw hollows are then rinsed in water and coated with a

¹³ The description of the production methodology for seamless pipe is taken from *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Argentina, Brazil, and Germany*, Inv. Nos. 731-TA-707-709 (Second Review), USITC Pub. No. 3918 (May 2007) ("2007 Reviews") at I-22 to I-25.

lubricant for cold drawing. The hollow is pulled through a die and over an internal mandrel, which reduces the outside diameter and increases the length. The mandrel inside the hollow controls the inside diameter and the wall thickness. Following cold drawing, the hollows are annealed (heat treated).

Finishing operations on subject seamless pipe include straightening, cutting to length, inspection, testing, end finishing (*e.g.*, beveling or threading), and coating. Pipes may be furnished galvanized (hot-dip zinc coated) and may be threaded and coupled.

3. Tariff Classification

U.S. Customs and Border Protection ("Customs") classifies seamless pipe under a number of Harmonized Tariff Schedule of the United States ("HTS") codes currently including, but not limited to: 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.3000, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070. Excerpts from the current HTS are attached as Exhibit I-9. These HTS classifications became effective on February 3, 2007. Subsequent editions of the HTS have not resulted in revisions to the codes listed above. See Exhibit I-10.

Prior to February 3, 2007, seamless pipe was classified under a slightly different set of HTS codes, including but not limited to: 7304.10.1020, 7304.10.1030, 7304.10.1045, 7304.10.1060, 7304.10.5020, 7304.10.5050, 7304.31.3000, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072,

7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070. Excerpts from the previous editions of the HTS are attached as Exhibit I-12. The most-favored nation duty rate for imports under these HTS numbers is 0 percent.

The tariff numbers are provided for the convenience of the U.S. government and do not define the scope of the Petitions.

F. The Name of the Home Market Country and the Name of Any Intermediate Country Through Which the Merchandise Is Transshipped (19 C.F.R. 351.202(b)(6))

Seamless pipe covered by these Petitions is manufactured in and exported to the United States from China. Petitioners do not have any evidence indicating that the subject merchandise is produced in a country other than that from which it is exported.

G. The Names and Addresses of Each Person Believed to Sell the Merchandise at Less Than Normal Value and the Proportion of Total Exports to the United States (19 C.F.R. § 351.202(b)(7)(i)(A))

The names and addresses of the entities that Petitioners believe to be producing and exporting seamless pipe subject to these Petitions are provided in Exhibit I-11. Information reasonably available to Petitioners does not allow them to identify the proportion of total exports to the United States accounted for during the most recent 12-month period by the producers listed in this exhibit. Petitioners believe, however, that those companies account for the vast majority of subject exports. In compiling this list, Petitioners included entities that were listed in the [

] as possessing an ASTM A-795, ASTM A-589, ASTM A-335, ASTM A-334, ASTM A-333, ASTM A-106, ASTM A-53, or API 5L certificate, and/or referenced the production of seamless pipe on their websites. These data represent the best

information reasonably available to Petitioners. It should be noted, however, that these data may not reflect new producers that have only recently begun making the subject product.

H. All Factual Information Related to the Calculation of Export Price and the Constructed Export Price of the Subject Merchandise and the Normal Value of the Foreign Like Product for Market Economy Countries (19 C.F.R. § 351.202(b)(7)(i)(B))

Volume II of these petitions contains the necessary information concerning the calculation of the export price for merchandise produced and exported from China. As China is currently considered to be a non-market economy, Petitioners' calculation of normal value is based upon a factors-of-production analysis,¹⁴ as discussed in Volume II.

I. Factual Information Related to the Calculation of Normal Value of the Foreign Like Product in Non-Market Economy Countries (19 C.F.R. § 351.202(b)(7)(i)(C))

Volume II of these petitions contains the information necessary to substantiate less than normal value allegations and factual information relevant to China.

J. The Names and Addresses of Each Person Believed to Benefit from a Countervailable Subsidy Who Exports the Subject Merchandise to the United States and the Proportion of Total Exports to the United States (19 C.F.R. § 351.202(b)(7)(ii)(A))

The names and addresses of the entities believed by Petitioners to be benefiting from a countervailable subsidy and who have exported the seamless pipe subject to these Petitions are provided in Exhibit I-11. Information reasonably available to Petitioners does not allow them to identify the proportion of total exports to the United States accounted for during the most recent 12-month period by the producers listed in these exhibits. Petitioners believe, however, that the companies listed in Exhibit I-11 account for the vast majority of subject imports.

¹⁴ See 19 C.F.R. § 351.408 (2009).

K. The Alleged Countervailable Subsidy and Factual Information Relevant to the Alleged Countervailable Subsidy (19 C.F.R. § 351.202(b)(7)(ii)(B))

Volume III of these petitions contains information concerning the alleged countervailable subsidies as well as factual information relevant to the alleged countervailable subsidies, the law, regulations and the decrees under which the subsidies were bestowed, the manner in which the subsidies were paid, and Petitioners' estimation – to the extent practicable – of the value of the subsidies to Chinese producers and exporters of seamless pipe subject to these Petitions.

L. The Volume and Value of the Merchandise Imported During the Most Recent Three-Year Period (19 C.F.R. § 351.202(b)(8))

Subject imports from China have increased significantly over the most recent three-year period. By volume under the relevant HTS numbers, imports from China increased from 158,128 net tons ("NT") in 2006 to 366,091 NT in 2008.¹⁵ By value, imports from China into the United States under the HTS headings increased from \$119.6 million in 2006 to \$381.9 million in 2008.¹⁶

M. The Names and Addresses of Each Entity the Petitioner Believes Imports or Is Likely to Import the Merchandise (19 C.F.R. § 207.11(b)(2)(iii); 19 C.F.R. § 351.202(b)(9))

In order to respond to this requirement, Petitioners analyzed [_____], and identified every importer of seamless tubular products from China in which: (1) the available data showed that the goods at issue were seamless pipe, or (2) the available data left open the possibility that the goods at issue were seamless pipe. The names and addresses of the importers identified in this manner are listed in Exhibit I-14. While these data

¹⁵ See Exhibit I-13. The HTS codes that cover seamless pipe include a number of basket categories that also cover products that are not subject to these Petitions. Accordingly, in order to obtain the best estimates for subject imports, Petitioners have drawn only upon the following HTS numbers in compiling import data for these Petitions: 7304.10.1020, 7304.10.1030, 7304.10.1045, 7304.10.1060, 7304.10.5020, 7304.10.5050, 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0036, 7304.39.0048, 7304.39.0062, 7304.59.8010, 7304.59.8015, 7304.59.8030, 7304.59.8045, and 7304.59.8060.

¹⁶ See *id.*

represent the best information reasonably available to Petitioners, they believe that there may be a number of importers of seamless pipe from China that are unknown to Petitioners at this time. Petitioners respectfully request that the Department and the Commission obtain this information from U.S. Customs and Border Protection. Petitioners do not have access to this information.

II. INJURY

A. Introduction

The record leaves no doubt that Chinese imports caused material injury to domestic producers, and that such imports threaten additional material injury in the absence of relief. Given current market conditions, failure to address the impact of this unfair trade will likely have devastating consequences for the domestic industry.

The evidence of material injury is overwhelming. The volume of U.S. imports from China soared from 158,128 NT in 2006 to 366,091 NT in 2008, an increase of 132 percent.¹⁷ While Chinese imports declined somewhat from the first half of 2008 to the first half of 2009, such imports [] domestic shipments during the first six months of the year. Indeed, petitioners estimate that during the first half of 2009, the volume of Chinese imports that entered the U.S. market was [] as the volume of seamless pipe shipped by U.S. producers. Thus, the subject imports continue to [

] Furthermore, throughout the period of investigation, Chinese imports [] undersold the domestic like product, often by [] per ton. In light of these facts, the Commission should find that both the volume and the price effect of subject imports were significant.

¹⁷ See Exhibit I-13. $366,091 - 158,128 = 207,963$; $207,963 / 158,128 = 1.32 = 132$ percent.

Furthermore, the record shows that Chinese imports have had a significant adverse impact on the domestic industry. Throughout 2008, domestic producers of seamless pipe benefited from generally strong market conditions that resulted in increased demand and higher prices. Unfortunately, these favorable trends were overwhelmed by a tremendous surge in Chinese imports, which soared by *112.4 percent* in only one year.¹⁸ As noted above, those imports were also [] priced below the domestic product, usually []. This incredible surge in dumped and subsidized imports from China caused inventories of seamless pipe to grow to [] levels, leading to an [] in U.S. production. Indeed, petitioners estimate that their U.S. shipments of seamless pipe [] from [] NT in the first half of 2008 to [] NT in the first half of 2009¹⁹ – a decline of [] percent.²⁰

This [] in domestic sales has had devastating consequences for the domestic industry. Petitioners (who generally account for more than [] percent of U.S. shipments by domestic producers)²¹ have seen their operating income [] by [] percent from the first half of 2008 to the first half of 2009.²² Over this same period, the average number of production-related workers employed by Petitioners [] by [] percent.²³

In light of these facts, there can be no doubt that dumped and subsidized Chinese imports have caused material injury to the domestic industry.

¹⁸ See Exhibit I-13 (showing that U.S. imports from China were 172,321 NT in 2007 and 366,091 NT in 2008). $366,091 - 172,321 = 193,770$; $193,770 / 172,321 = 1.124 = 112.4$ percent.

¹⁹ See Exhibit I-15.

²⁰ [] .

²¹ See Exhibit I-7 & Exhibit I-8.

²² See Exhibit I-16 (showing that Petitioners had a combined operating income of [] ([])).

²³ See Exhibit I-15 (showing that the average number of production-related workers employed by Petitioners was [] in the first half of 2008 and [] in the first half of 2009) ([]).

Domestic producers are also threatened with additional material injury by reason of subject imports. Given that domestic production has been [] for much of this year, and that the U.S. economy has contracted severely over the last year, it is clear that U.S. mills are extremely vulnerable to further injury, and that they are certainly in no condition to face yet another surge of unfairly-traded Chinese imports. Unfortunately, Chinese imports will continue to exert heavy pressure on this market in the absence of trade relief. Chinese mills are adding millions of tons in new capacity – even though, as these mills themselves have explicitly recognized, their own home market is already oversupplied. They also face significant trade barriers in other key markets and on other products that will encourage them to focus on increasing exports to the United States. And they continue to benefit from government subsidies that are designed to encourage exports. In light of these and other facts discussed in more detail below, the Commission should find that Chinese imports threaten domestic producers with additional material injury.

B. The Domestic Like Product Consists of Seamless Pipe up to and Including 16 Inches in Outside Diameter

In determining whether 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.²⁴ The "domestic like product" is defined 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"²⁵ In an investigation, the like product determination is a factual one that is made on a case-by-case basis.²⁶ The Commission generally considers the following factors: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and

²⁴ See *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 382 (Ct. Int'l Trade 1998) ("*NEC*").

²⁵ 19 U.S.C. § 1677(10) (2006).

²⁶ See, e.g., *NEC*, 36 F. Supp. 2d at 383.

producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and (6) where appropriate, price.²⁷ In evaluating these factors, the Commission looks for clear dividing lines and disregards minor variations.²⁸

In this case, the imported article subject to investigation is seamless pipe with an outer diameter ("OD") ranging up to and including 16 inches. The domestic product "like" the imported merchandise is coextensive with the scope of the investigation: *i.e.*, there is a single domestic like product consisting of seamless pipe.

In a prior set of investigations – *Certain Seamless Carbon and Alloy Standard, Line, and Pressure Pipe from Japan and South Africa* (the "2000 Determinations")²⁹ – the Commission found that two size ranges of seamless pipe – referred to in those cases as "small diameter" pipe (*i.e.* seamless pipe with an outside diameter ("OD") up to and including 4 ½ inches) and "large diameter" pipe (*i.e.* seamless pipe with an OD greater than 4 ½ inches and up to and including 16 inches) – were separate like products. As shown below, however, the evidence in these investigations relating to the Commission's six traditional like factors supports a finding of a single like product consisting of all seamless pipe with an OD up to and including 16 inches.³⁰

Physical Characteristics and Uses. As the Commission recognized in the 2000 Determinations, the only difference in the physical characteristics of small diameter seamless pipe

²⁷ See, e.g., *Cleo, Inc. v. United States*, 501 F.3d 1291, 1295 (Fed. Cir. 2007) ("*Cleo*").

²⁸ *Cleo*, 501 F.3d at 1295.

²⁹ USITC Pub. 3311, Inv. Nos. 731-TA-847 and 850 (Final), at 7 and 9, n.32 (June 2000).

³⁰ In this discussion, Petitioners will continue to use the terms "small diameter" pipe and "large diameter" pipe as a convenient "shorthand" description of the size of the products at issue, and because this is how pipe falling within certain size ranges was defined in prior cases. The use of these terms for these purposes should not be interpreted as implying that Petitioners believe that there currently are meaningful differences between "small diameter" pipe and "large diameter" pipe such that they should be treated as separate like products.

and large diameter seamless pipe is the size of the products.³¹ Consistent with long-standing Commission practice, such a size difference, by itself, cannot form the basis for a finding of multiple like products.³² Insofar as uses are concerned, in the 2000 Determinations, the Commission found that small diameter pipe and large diameter pipe have "overlapping end uses (*i.e.*, standard pipe applications; line pipe applications; and pressure pipe applications)."³³

Interchangeability. In the 2000 Determinations, the Commission found that "{t}here is very limited interchangeability between small and large diameter seamless pipe because of engineering design and specifications."³⁴ Recent Commission precedent clearly shows, however, that in cases such as this one, such lack of interchangeability does not argue in favor of a finding of multiple like products. For example, in *Off-the-Road Tires from China*,³⁵ the Commission stated that the evidence clearly showed that there was virtually no interchangeability between tires with a rim diameter of 39 inches or more, and tires with a rim diameter of less than 39 inches. The Commission held, however, that this factor was "of limited use" in helping the Commission to define the like product, as each of the tires at issue was designed to be a specific size for a specific use.³⁶ This reasoning applies directly to seamless pipe. If a pipeline is designed to use pipe with an OD of 4 ½ inches, seamless pipe with an OD of 5 ½ inches cannot be used in that pipeline. A lack of interchangeability of this type says nothing about whether two products are separate like products.

³¹ 2000 Determinations at 7.

³² See *Heavy Forged Handtools from the People's Republic of China*, Inv. No. 731-TA-457 (Final), USITC Pub. 2357 (Feb. 1991) at 7-8 (stating that the Commission "generally has not drawn lines based solely on size, and has looked for other points of distinction before finding separate like products").

³³ 2000 Determinations at 7.

³⁴ *Id.* at 8.

³⁵ Inv. Nos. 701-TA-448 and 731-TA-1117 (Final), USITC Pub. 4031 (Aug. 2008).

³⁶ *Id.* at 9.

Channels of Distribution. In the 2000 Determinations, the Commission found that "U.S. producers sell both small diameter and large diameter pipe mainly to distributors that tend to purchase seamless pipe in both size ranges.³⁷ The Commission also noted that "no purchaser reported any difference in the channels of distribution between small and large diameter pipe."³⁸ Petitioners believe that the record in these investigations will lead to the same conclusions.

Common Manufacturing Facilities, Employees, and Methods. In finding two like products in the 2000 Determinations, the Commission cited the fact that small diameter and large diameter pipe are generally "manufactured in different mills with different equipment."³⁹ But that is less true today. One producer that only made small diameter pipe – Vision Metals, formerly the Gulf States Tube division of Quanex Corporation – ceased operations in 2000.⁴⁰ There are indications that the mill of another producer that made only small diameter pipe – Koppel Steel Corporation, now a unit of TMK IPSCO – has been expanded so that it can now make seamless products with an OD up to 5 ½ inches.⁴¹ Thus, the evidence relating to common manufacturing facilities, employees, and methods has changed since the 2000 Determinations so as to significantly blur the distinction between small diameter pipe and large diameter pipe with respect to that factor.

Customer and Producer Perceptions. In the 2000 Determinations, the Commission found that petitioners and respondents agreed that producers and customers perceive small diameter and

³⁷ 2000 Determinations at 8.

³⁸ *Id.*

³⁹ *Id.* at 9.

⁴⁰ 2007 Reviews at I-28. A minor producer of seamless pipe that was owned by Vision Metals, Michigan Seamless, has been acquired by Atlas Holdings, LLC, and no longer makes seamless pipe. *Id.*

⁴¹ "Q1 2007 IPSCO Earnings Conference Call and Webcast," *FD (Fair Disclosure) Wire* (Apr. 24, 2007), attached as Exhibit I-17.

large diameter seamless pipe to be different products because of the differences in end uses.⁴² As explained above, however, the record in those cases actually showed that the uses of those products overlapped to a significant extent. Furthermore, U.S. consumers do not perceive small diameter and large diameter pipe to be separate products.⁴³ As a general matter, API and ASTM specifications are not defined on this basis. And, when a consumer orders seamless pipe, it orders a product that meets a required specification – not “small diameter” pipe or “large diameter” pipe.

Price. In the 2000 Determinations, the Commission stated that because the productivity rate (in tons per hour) for manufacturing small diameter pipe is much lower than it is for large diameter pipe, small diameter pipe has higher variable costs and higher average unit values (“AUVs”).⁴⁴ Petitioners, believe, however, that the evidence in these investigations will show that [

] For example,

[

] ⁴⁵

Conclusion. It is clear that the record has changed since the 2000 Determinations, and that taken as a whole, the six like product factors weigh in favor of treating all seamless pipe covered by these petitions as part of a single like product.

⁴² 2000 Determinations at 7.

⁴³ [

], attached as Exhibit I-18.

] See [

⁴⁴ 2000 Determinations at 8.

⁴⁵ [

] attached as Exhibit I-19.

C. Subject Imports Are Causing Present Material Injury to the Domestic Industry

In determining whether a domestic industry is experiencing present material injury caused by unfairly-traded imports, the Commission is directed by law to consider:

- (I) the volume of imports of the subject merchandise,
- (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and
- (III) the impact of imports of such merchandise on domestic producers of domestic like products⁴⁶

As demonstrated below, the evidence bearing upon each of these factors shows that the domestic seamless pipe industry is suffering material injury by reason of the subject imports.

1. The Volume of Subject Imports Is Significant

In evaluating the volume of imports, the Commission must “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.”⁴⁷ In these investigations, there can be no question that the volume of the subject imports, both in absolute terms and relative to U.S. consumption and production, is “significant” within the meaning of the Act, and that the increase in the volume of subject imports is also significant.

Chinese imports soared from 158,128 NT in 2006 to 366,091 NT in 2008⁴⁸ – an increase of 207,963 NT or 132 percent.⁴⁹ As a result of this surge over the period of investigation, the U.S. market share of imports from China rose from [] percent in 2006 to [] percent in 2008.⁵⁰ Similarly, the ratio of Chinese imports to U.S. shipments by domestic producers increased from

⁴⁶ 19 U.S.C. § 1677(7)(B) (2006).

⁴⁷ *Id.* § 1677(7)(C)(i) (2006).

⁴⁸ *See* Exhibit I-13.

⁴⁹ $366,091 - 158,128 = 207,963$; $207,963 / 158,128 = 1.32 = 132$ percent.

⁵⁰ *See* Exhibit I-20.

[] percent in 2006 to [] percent in 2008.⁵¹ Thus, during 2008 Chinese mills held a share of the U.S. market []

Furthermore, Chinese mills [] market share – particularly [] – during the first half of 2009. In the first six months of this year, U.S. shipments of seamless pipe by domestic producers fell [] – by [] percent relative to the comparable period in 2008.⁵² By contrast, imports of seamless pipe from China []

: 66,459 NT in the first six months of this year compared to 117,602 NT in the first six months of 2008.⁵³ As a result, China's share of the U.S. market [] from [] percent in the first half of 2008 to [] percent in the first half of 2009.⁵⁴ More significantly, the ratio of Chinese imports to U.S. shipments [] from [] percent in the first half of 2008 to [] percent in the first half of 2009.⁵⁵ In other words, during the first half of this year, Chinese producers held [] of the U.S. market as their U.S. counterparts.

In light of these facts, the Commission should conclude that the volume of subject imports was significant.

2. The Price Effect of Subject Imports Is Significant

In evaluating the effect of subject imports on prices, the Commission must consider whether “there has been significant price underselling by the imported merchandise,” and whether the effect of imports “otherwise depresses prices to a significant degree or prevents price increases, which

⁵¹ See Exhibit I-21

⁵² See Exhibit I-15 (showing U.S. shipments of [] NT in the first half of 2008 and [] NT in the first half of 2009) ([]).

⁵³ See Exhibit I-13.

⁵⁴ See Exhibit I-20.

⁵⁵ See Exhibit I-21.

otherwise would have occurred, to a significant degree.”⁵⁶ The evidence in this case clearly shows that the industry has experienced significant adverse price effects.

For the period from January 2006 through December 2008, Exhibit I-22 shows monthly comparisons between the AUVs for U.S. imports of seamless line pipe from China with prices in the U.S. market reported by [] in two different categories.⁵⁷ These data show underselling in [] of [] comparisons. In many of those comparisons during 2008, the difference in price exceeded [].⁵⁸ These data actually significantly *understate* the difference in price between U.S. and Chinese seamless line pipe, because [] and because []

].

Furthermore, the price of seamless pipe exported from China has fallen steeply over the past year. In the August 2009 issue of [], for example, [] reports that []⁵⁹

These facts plainly indicate that underselling by Chinese producers has been significant. Petitioners also believe that underselling will be clearly evidenced in the data that the Commission collects on prices of particular products. Petitioners request the Commission to collect pricing data on the following products:

⁵⁶ 19 U.S.C. § 1677(7)(C)(ii) (2006).

⁵⁷ Due to differences in classification, it is not possible to make similar comparisons between AUVs for U.S. imports of seamless standard or pressure pipe from China with [] data.

⁵⁸ See Exhibit I-22.

⁵⁹ []

Product 1: Seamless pipe quad stenciled to meet ASTM A-106 grade B, ASTM A-53 grade B, API 5L grade B and API 5L grade X-42 specifications; 2” nominal size (2 3/8 inch OD x 0.154 wall thickness); plain ends.

Product 2: Seamless pipe quad stenciled to meet ASTM A-106 grade B, ASTM A-53 grade B, API 5L grade B and API 5L grade X-42 specifications; 4” nominal size (4 1/2 inch OD x 0.237 wall thickness); plain ends.

Product 3: Seamless pipe quad stenciled to meet ASTM A-106 grade B, ASTM A-53 grade B, API 5L grade B and API 5L grade X-42 specifications; 8” nominal size (8 5/8 inch OD x 0.322 wall thickness); plain ends.

Product 4: Seamless pipe quad stenciled to meet ASTM A-106 grade B, ASTM A-53 grade B, API 5L grade B and API 5L grade X-42 specifications; 12” nominal size (12 3/4 inch OD x 0.375 wall thickness); plain ends.

It is also clear that low-priced Chinese imports had a suppressing and depressing effect on U.S. prices. As a matter of economics, such a surge in imports necessarily had significant adverse effects on prices of the domestic like product. This is because the increase in imports pushed out the supply curve in the U.S. market. The effect of such a shift is that prices are lower than they otherwise would have been.⁶⁰

Because demand was so strong, the effects of the subject imports were not initially manifested in falling prices of the domestic product. Instead, prices were suppressed by these imports. Since the third quarter of 2008, however, the surge in imports has driven domestic prices down. According to []:⁶¹

- The [];⁶²

⁶⁰ See Transcript of U.S. Int’l Trade Comm’n Conference in *Certain Oil Country Tubular Goods from China*, Inv. Nos. 701-TA-463 and 731-TA- 1159 (Prelim.) (Apr. 29, 2009) at 62-63 (Dr. Hausman) (Public Document).

⁶¹ [] attached as Exhibit I-5.

⁶² [] .

- The [];⁶³
- The [];⁶⁴
- The [];⁶⁵

These facts constitute further evidence that the price effect of subject imports was significant.

3. The Impact of the Subject Imports on the Domestic Industry Is Significant

In examining the impact of subject imports on the domestic industry, the Commission is instructed to consider “all relevant economic factors which have a bearing on the state of the industry within the United States.”⁶⁶ All relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁶⁷ In this case, it is clear that unfairly-traded Chinese imports have had a significant impact on the domestic industry.

a. A Flood of Chinese Imports in 2008 Created a [] Inventory Overhang

U.S. consumption of seamless pipe grew in 2008, driven by soaring oil and gas prices during the first half of the year. Such conditions were favorable for seamless pipe producers, and as a

⁶³ []

⁶⁴ []

⁶⁵ []

⁶⁶ 19 U.S.C. § 1677(7)(C)(iii) (2006).

⁶⁷ *Id.*

result prices generally rose during the first three quarters of the year.⁶⁸ Unfortunately, this demand was overwhelmed by the incredible surge of Chinese imports that flooded the U.S. market. [

] ⁶⁹ At the same time, [

] ⁷⁰ [

] ⁷¹

Only one month later, [

] ⁷² [

] ⁷³ In

June 2009, [] reported that [

] ⁷⁴

⁶⁸ For example, [] reports that the AUVs of seamless line pipe with an OD ranging from 5 inches up to and including 16 inches rose from [] per ton in January 2008 to [] per ton in September 2008. See [], attached as Exhibit I-18.

⁶⁹ [], attached as Exhibit I-24.

⁷⁰ *Id.*

⁷¹ *Id.* at 34.

⁷² [], attached as Exhibit I-25.

⁷³ *Id.*

⁷⁴ [], attached as Exhibit I-26.

In July 2009, [] made the following statement about inventories in the seamless pipe and tubing market:

[

] ⁷⁵

In August, [] noted that [

] ⁷⁶

b. The Inventory Overhang Has Had Devastating Consequences for U.S. Producers and Workers

This [] increase in inventory – which was the direct result of Chinese imports – has led to a [] decline in the domestic industry’s production. Indeed, the domestic industry has [] In the first half of 2009, production by Petitioners was [] percent lower than it was during the comparable period in 2008.⁷⁷ Employment conditions in the industry have []. Petitioners report that the average number of production-related workers in their facilities devoted to the subject product fell by [] percent from the first half of 2008 to the first half of 2009.⁷⁸ Even for those workers who are still employed, their compensation has been significantly reduced because they are working minimal production hours.

⁷⁵ []

⁷⁶ []

⁷⁷ See Exhibit I-15 (showing that production by Petitioners fell from [] NT in the first half of 2008 to [] NT in the first half of 2009) ([]).

⁷⁸ See *id.* (showing that the average number of production-related workers employed by Petitioners fell from [] in the first half of 2008 to [] in the first half of 2009) ([]).

The industry has, []

Nevertheless, sales have fallen to a level that has [] Petitioners' bottom line. As shown in Exhibit I-16, Petitioners' operating income [] from [] in the first half of 2008 to [] in the first half of 2009 – a decline of [] percent.⁷⁹ Thus, there can be no question that subject imports have had a significant impact on the domestic industry.

c. Due to Subject Imports, Petitioners Experienced Lost Sales and Revenues

A listing of all sales or revenues lost by each petitioning firm by reason of the subject merchandise from 2006 to 2008 is not reasonably available to Petitioners. Domestic producers of tubular goods like seamless pipe are not well-positioned to identify specific “lost” sales or revenues because such goods are sold primarily to distributors and domestic producers rarely deal directly with the end user customers.⁸⁰ Nevertheless, the Commission should have no difficulty concluding that domestic producers lost sales and revenues to the tremendous surge of imports from China. As demonstrated above, the ratio of Chinese imports to U.S. production has [], and the operating margin of Petitioners []. These facts plainly show that domestic producers are losing sales and revenues to Chinese imports.

D. Subject Imports Threaten Additional Material Injury to the Domestic Industry

1. Introduction

Subject imports also threaten massive additional injury to domestic producers. As described above, much of the domestic industry is [] due to the [] inventories of

⁷⁹ []

⁸⁰ This situation is very similar to the one faced by the Commission in last year's investigations regarding welded line pipe. *Certain Circular Welded Carbon Quality Steel Line Pipe from China and Korea*, USITC Pub. 4033, Inv. Nos. 701-TA-455 and 731-TA-1149-1150 (Prelim.) (May 2008) at V-11.

{T}he Commission shall consider, among other relevant factors –

- (1) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Articles 3 or 6.1 of the {Agreement on Subsidies and Countervailing Measures Agreement (the "Subsidies Agreement")}, and whether imports of the subject merchandise are likely to increase,
- (2) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports . . . taking into account the availability of other export markets to absorb any additional exports,
- (3) a significant rate of increase of the volume or market penetration of imports of the subject merchandise . . . ,
- (4) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect . . . and are likely to increase demand for further imports,
- (5) inventories of the subject merchandise,
- (6) the potential for product shifting . . . ,⁸²
- (7) the actual and potential negative effects on the existing development and production effects of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
- (8) any other demonstrable adverse trends that indicated the probability that there is likely to be material injury by reason of imports . . . of the subject merchandise

The law further provides that the Commission shall consider the above factors as a whole.⁸³

The presence or absence of any particular factor shall not necessarily give decisive guidance with respect to the determination.⁸⁴ As demonstrated below, these factors strongly indicate that domestic producers of seamless pipe are threatened with material injury by subject imports from China.

⁸² Subsection VII relates solely to agricultural products and is not relevant to these investigations.

⁸³ 19 U.S.C. § 1677(7)(F)(ii) (2006).

⁸⁴ *Id.*

3. All Issues Relevant to the Commission's Threat of Material Injury Analysis Should be Considered in Light of the Current Economic Crisis

In assessing the threat of material injury by reason of Chinese imports, the Commission should analyze the relevant statutory factors in light of the current economic crisis. The Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act recognizes that market conditions (such as the current economic crisis) may weaken the domestic industry such that subject imports could threaten material injury. The SAA states in the relevant section:

In threat determinations, the Commission must carefully assess current trends and competitive conditions in the marketplace to determine the probable future impact of imports on the domestic industry and whether the industry is vulnerable to future harm.⁸⁵

According to President Obama, the United States is "*going through the worst economic crisis since the Great Depression.*"⁸⁶ While some economic analysts are forecasting that the economy will soon begin to recover, most believe that any recovery will be slow and that it will be less than robust.⁸⁷ The unemployment rate, at 9.7 percent, is the highest that it has been since the early 1980s.⁸⁸ For these reasons, among others, it is unlikely that any bounce in the economy in the near term will be more than modest.

The economic crisis has obvious implications for the seamless pipe market. Demand for seamless pipe depends on factors such as oil and gas prices.⁸⁹ Thus, to the extent the economic

⁸⁵ SAA, H.R. Rep. 103-316 at 885 (1994), *reprinted in* 1994 U.S.C.C.A.N. 4040, 4210.

⁸⁶ "Transcript: Obama Press Conference," *CBS News* (Feb. 9, 2009) at 4, *available at* <http://www.cbsnews.com>, attached as Exhibit I-28 (emphasis added).

⁸⁷ *See e.g.* "Federal Reserve President Sees 'Lackluster' Recovery in U.S.," *American Banking News* (Sept. 11, 2009) *available at* <http://www.americanbankingnews.com>, attached as Exhibit I-29.

⁸⁸ Victoria McGrane, "Unemployment jumps to 9.7%," *Politico* (Sept. 4, 2009) *available at* <http://www.politico.com>, attached as Exhibit I-30.

⁸⁹ *See* 2007 Reviews at 17.

crisis affects oil and gas prices, it obviously depresses demand for seamless pipe, thereby leaving domestic producers highly vulnerable to the threat of material injury from Chinese imports.

There is no question that the economic crisis has had and continues to have a severe effect on oil and gas prices. The price of crude oil peaked in early July 2008 at around \$145/barrel, and it had already fallen to \$109/barrel in late September 2008,⁹⁰ when the crisis in the financial sector of the economy became very serious. Since that time, however, the price of crude oil has fallen further. Despite a rebound in recent months, the price of oil was at \$69/barrel as of September 14, 2009.⁹¹ In other words, since July 2008, the price of crude oil has fallen *52 percent*.⁹² Natural gas prices reflect even more dramatic declines. The price of natural gas peaked at \$13.58/MMBTU in early July 2008.⁹³ However, as of September 14, 2009, the price of natural gas was only \$3.38/MMBTU, a fall of *75 percent*.⁹⁴ This decline is shown in Exhibit I-32, which shows a steep and continuing decline in natural gas prices since August of last year. As one market observer has noted:

Natural gas has missed out on the recent commodity rally. Despite oil's rise, the price of natural gas in the US hit a seven-year low on August 18. Oil and gas may come from the same fields, but they're not interchangeable. And a growing supply glut is causing the gas market a lot of indigestion.⁹⁵

This decline in the price of natural gas has had especially serious consequences for demand for seamless pipe in the United States because natural gas wells account for the majority of active

⁹⁰ Exhibit I-31.

⁹¹ *Id.*

⁹² $145 - 69 = 76$; $76 / 145 = 0.52 = 52$ percent.

⁹³ Exhibit I-32.

⁹⁴ $13.58 - 3.38 = 10.20$; $10.20 / 13.58 = 0.75 = 75$ percent.

⁹⁵ Aliza Rosenbaum, "Bloated Market," *Business Standard* (Aug. 21, 2009), attached as Exhibit I-33.

drill rigs in North America.⁹⁶ Indeed, [] has observed that, []⁹⁷ As for when a recovery in gas drilling might occur, [] stated in July that []⁹⁸

Not surprisingly, oil and gas companies have responded to falling prices by slashing their drilling plans. Compared to 2008, when the U.S. rig count peaked at 2,031,⁹⁹ in September 2009, the rig count was 50 percent lower, at 1,009.¹⁰⁰

These events will continue to cause the condition of the domestic industry to deteriorate. According to [], in the market for line pipe in the sizes covered by the Petition, []¹⁰¹ For standard pipe in the same size range, [] reports that []¹⁰²

These economic conditions are highly relevant to the Commission's analysis of threat of material injury by reason of Chinese imports because they show that the domestic industry is highly vulnerable.

⁹⁶ *Certain Oil Country Tubular Goods from China*, USITC Pub. 4081, Inv. Nos. 701-TA-463 and 731-TA-1159 (Prelim.) (June 2009) at II-5.

⁹⁷ [] attached as Exhibit I-23.

⁹⁸ [], attached as Exhibit I-19.

⁹⁹ Baker Hughes, Inc., "North American Rotary Rig Count," *available at* http://www.investor.shareholder.com/bhi/rig_counts/rc_index.cfm (last visited Sept. 9, 2009), attached as Exhibit I-34.

¹⁰⁰ *Id.* 2,031 – 1,009 = 1,022; 1,022 / 2,031 = 0.503 = 50.3 percent.

¹⁰¹ [] attached as Exhibit I-19.

¹⁰² *Id.* at 33.

4. **Each of the Relevant Statutory Factors Weighs in Favor of a Finding that Chinese Imports Threaten the Domestic Industry with Additional Material Injury**

a. **China Encourages Exportation of Subject Merchandise Through Countervailable Subsidies**

The Act provides that in making a threat determination, the Commission shall consider “if a countervailable subsidy is involved” and, in particular, “whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.”¹⁰³ The Government of China and local and provincial governments within China are providing numerous export subsidies to producers of seamless pipe that are described by Articles 3 and 6.1 of the Subsidies Agreement. These subsidies are described in detail in Volume III of these Petitions. Among the most significant examples are the following:

- **Subsidies Provided to Companies Located in Economic Development Zones and Industrial Development Zones:** The Government of China, together with provincial and local governments in China, have created economic development zones and industrial development zones strategically located on China’s seacoasts to support seamless pipe exports. Seamless pipe producers located in such regions receive a variety of significant subsidies, including reduced taxes, tax rebates, and free or discounted land.
- **Subsidies for Development of Famous Export Brands and China World Top Brands:** The Government of China provides grants, loans, and other incentives to China’s seamless pipe producers that have been designated by the government as “Famous Export Brands” and “China World Top Brands.” These subsidies are explicitly designed to promote the development of Chinese exports.
- **Export Interest Subsidies:** Provincial governments in China subsidize exports of seamless pipe through grants that offset the interest paid on loans used to support the seamless pipe producers’ export operations.

These subsidies strongly indicate that the surge in exports from China is likely to increase.

¹⁰³ 19 U.S.C. § 1677(7)(F)(i)(I) (2006).

b. Chinese Producers Have Significant Volumes of Unused Capacity and Imminent, Substantial Increases in Production Capacity, Both of which Indicate the Likelihood of Substantially Increased Imports

The Act provides that, in making a threat determination, the Commission shall consider any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating that likelihood of substantially increased imports,¹⁰⁴ taking into account the availability of other export markets to absorb additional exports.¹⁰⁵ This factor weighs heavily in favor of a threat determination. As discussed below, China already has significant unused capacity, and it is in the midst of a major effort to *expand* its capacity.

i. Unused Capacity

It is recognized in China itself that China has far too much seamless pipe capacity. A representative of Chinese producer Baotou stated at a conference in May of this year that the problem of excess seamless capacity is "more and more serious."¹⁰⁶ He said that "{a} large quantity of producers and demand slip have already {stimulated} price competition and steel pipe industry would suffer losses for a long time in the future."¹⁰⁷ Remarkably, he also stated that despite these facts, many companies were investing in yet additional capacity expansion.¹⁰⁸

Moreover, the only reason why China does not have even more excess capacity than it already does is that Chinese producers are maximizing production even though this is not warranted by demand conditions. In July 2009, [] took note of this:

¹⁰⁴ Such an increase may be in either absolute terms or in terms of the level of import market penetration. *See Citrosuco Paulista, S.A. v. United States*, 704 F. Supp. 1075 (Ct. Int'l Trade 1988).

¹⁰⁵ 19 U.S.C. §1677(7)(F)(i)(II) (2006).

¹⁰⁶ "Competition to benefit steel pipe industry," *Chinese Seamless Steel Pipe Web* (May 26, 2009), <http://net0210.lcgkg.com/news/readnews.asp?newsid=3707>, attached as Exhibit I-35.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

[

] ¹⁰⁹

Hence, the Chinese industry is essentially dead-set on defying gravity. If and when it falls to earth, it will certainly do so after first doing everything it can to export dumped and subsidized seamless pipe to the United States.

ii. New Capacity

Data reported by [] make clear that Chinese efforts to increase capacity have [] ¹¹⁰

According to [], China's production of seamless line pipe increased from [] MT in 2007, the last full year for which such data are available. ¹¹¹

This represents an increase of [] percent. ¹¹² Furthermore, this increase has been primarily driven by exports, not domestic consumption. While China's consumption of seamless line pipe

[] from [] in 2005 to [] in 2007, ¹¹³ its exports of that product [] MT. ¹¹⁴ Moreover, when viewed over a

period extending only slightly further back in time, it becomes apparent that the increase in Chinese production of seamless line pipe was not driven *at all* by an increase in domestic consumption.

[] data show that China's consumption of seamless line pipe []

¹⁰⁹ [], attached as Exhibit I-27.

¹¹⁰ [] does not publish similar data for standard pipe or pressure pipe. Accordingly, the [] data massively understate China's actual production and exports of seamless pipe.

¹¹¹ [] attached as Exhibit I-36.

¹¹² [] percent.

¹¹³ [] attached as Exhibit I-36.

¹¹⁴ *Id.* at [].

].¹¹⁵ Put another way, the Chinese industry [] increased its production of seamless line pipe [].

Other information from Chinese sources also shows that the tremendous increase in China's production of seamless pipe has been driven by exports rather than domestic consumption. For example, one Chinese news article states:

The pipe production in China increased greatly in 2008, mainly due to the increase in seamless steel pipe production, 1.9973 million tons over the previous year. According to incomplete statistics, the production of seamless steel tube production in China is constantly rising, accounting for 45% of the total world production in 2006, about 50% in 2007, and continues to grow in 2008.

As a percentage of steel production, the pipe products experienced a substantial increase of export of the same period, up from 20.80% in 2007 to 46.05%; In 2008, the export of seamless steel tubes reached 6.09 million tons, accounting for 30.19% of the production....

{T}he seamless export in China reached 6.09 million tons in 2008, *accounting for more than 90% of international trade*, proving the consumption of seamless pipes is *under a tremendous impact from the international market*.¹¹⁶

Another Chinese article (from June 2009) states that: "the national addition of 10 million tons of steel stock has not really been translated into consumption, but increases the inventory."¹¹⁷

Furthermore, the 2007 [] Chinese production data do not include the production or exports of new seamless pipe capacity in China that either came online in 2008, or will do so in the near future. This is very significant, because it appears that a very significant amount of new Chinese seamless pipe capacity came online in 2008, or will come online this year or in 2010. The facilities involved include the following:

¹¹⁵ *Id.* at []

¹¹⁶ "Decline in Pipe Consumption in International Market, Grim Export Outlook," *Tianjin Xin Yuan Sheng Fa Iron & Steel Sales Co., Ltd.*, (May 8, 2009) ("Decline in Pipe Consumption") (Chinese Language Document), attached as Exhibit I-37 (emphasis added).

¹¹⁷ "Domestic steel production increases the inventory," *Tianjin Wufeng Gangguan Wang*, (June 5, 2009) (Chinese Language Document, attached as Exhibit I-38).

- In January 2008, Shandong Liaochang ZGL Metal Manufacturing began operating a new plant in eastern China that makes line pipe and other seamless tubular products, including OCTG. This plant has a capacity of 400,000 MT per year.¹¹⁸
- In July 2008, Henan Fengbao Industry began operating a new seamless pipe mill that makes "commercial pipes" and OCTG, and has a capacity of 250,000 to 300,000 MT per year.¹¹⁹
- Yantai Lubao Steel Pipe Co., a unit of Baosteel, which produces seamless line pipe and other seamless tubular products,¹²⁰ will commission the first stage of a 600,000 MT per year seamless mill in October.¹²¹ This mill will make seamless pipe and other seamless tubular products, including OCTG.¹²² The second stage of the project will be completed by the end of 2010.¹²³

Taken together, these projects represent at least *1.25 million MT per year* of new capacity in China that can or will make seamless pipe, a volume equal to almost approximately *1.38 million NT per year*.¹²⁴ *This new capacity alone is more than three times the volume of imports of seamless pipe from China that entered this market last year and led to a [] inventory buildup.*¹²⁵

Even before the increases in capacity that are to take place in 2009 and 2010, China was, by far, the largest producer of seamless tubular products in the world.¹²⁶ According to one Chinese source, in 2008 China produced 20,180,000 tons of seamless tubular products (including OCTG and

¹¹⁸ "New seamless pipe mill commissioned in eastern China," *Steel Business Briefing* (Jan. 16, 2009), attached as Exhibit I-39.

¹¹⁹ "Chinese pipe maker plans pipe processing capacity," *Steel Business Briefing* (Dec. 15, 2008), attached as Exhibit I-40. Such "commercial pipes" almost certainly include seamless pipe of the kind at issue here.

¹²⁰ See Yantai Lubao Product Manual, available at <http://en.lubaosteelpipe.com>, attached as Exhibit I-41.

¹²¹ "Baosteel to start Yantai Seamless pipe project by October," available at www.steelguru.com (May 1, 2009) attached as Exhibit I-42.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ 1 MT = 1.1023 NT. []

¹²⁵ See Exhibit I-13 (showing that the United States imported 366,091 NT of seamless pipe from China last year). $1,380,000 / 366,091 = 3.77$.

¹²⁶ See "China Has Become the Biggest Producer of Seamless Steel Pipe," *Tianjin Seamless Steel Pipe News*, (June 11, 2009), available at <http://www.eyamedia.cn>, (Chinese language document), attached as Exhibit I-43.

other non-subject products) – a figure that accounted for 50 percent of the world-wide production of this category.¹²⁷ Furthermore, China is also by far the largest exporter of those products. Indeed, as discussed above, Chinese sources report that China is responsible for 90 percent of the seamless steel tubular products traded internationally.

Furthermore, the Chinese home market cannot absorb significant additional volumes of Chinese production. When Hunan Valin announced that it would be opening a new seamless mill in March of this year, the trade press reported that this mill will make line pipe as well as OCTG.¹²⁸ This report quoted a company source as stating that "a large part of the output from the new mill will target exports rather than domestic sales."¹²⁹ This company official indicated that the mill would focus on exports because the Chinese market would be oversupplied, as *eight* similar facilities had either been recently completed in China, or were under construction.¹³⁰

Moreover, the United States is by far the largest consumer of seamless pipe from China. In 2008, China exported approximately 2,290,000 tons of all forms of seamless tubular products (including OCTG and other non-subject products) to the United States.¹³¹ In comparison with the export quantity to China's two other major export regions of such pipe in 2008 – the European Union ("EU") (approximately 500,000 tons) and Korea (approximately 320,000 tons) – China exports approximately five to seven times more of those goods to the United States.¹³²

¹²⁷ *Id.*

¹²⁸ "Hengyang Steel Tube eyes large seamless pipe exports," *Steel Business Briefing* (Feb. 17, 2009), attached as Exhibit I-44.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ "Decline in Pipe Consumption" attached as Exhibit I-37.

¹³² $2,290,000 / 500,000 = 4.58$; $2,290,000 / 320,000 = 7.16$.

This ratio will only increase now that the European Union (“EU”) has decided to impose antidumping relief on seamless pipe from China, effectively closing off another major market for Chinese seamless pipe.¹³³ Last December, the EU imposed antidumping duties on welded pipe from China,¹³⁴ and the EU has recently decided to impose antidumping duties on seamless pipe from China.¹³⁵ Significantly, even the preliminary dumping margins in that case caused one Chinese seamless pipe producer to state that “*there is no chance at all to export to the European Union because of trade barriers.*”¹³⁶ Chinese sources report that China's export market for its seamless pipe is decreasing as “the EU's antidumping case against China's seamless pipe has made it impossible for a large amount of such product to be exported to the European market.”¹³⁷ In May 2009, another Chinese source stated:

In 2009 there's a decline in the demand of oil globally, an unavoidable trend towards the decline of demand of seamless steel pipes. So far the demand of oil casing in the US has demonstrated a declining trend, and the stock of the country is at a higher level. The oil pipe consumption all over the world has decreased dramatically and prices decreased at an accelerated speed....The prospect of huge demand of steel pipes will not appear domestically, and the outlook of steel pipe export will become extremely grim.¹³⁸

¹³³ “Grim Outlook of Seamless Steel Pipe Export under the Influence of the Financial Crisis,” *FATE Pipe*, available at <http://www.fatepipe.com>, (“Grim Outlook of Seamless Steel Pipe”) (Chinese language document) attached as Exhibit I-45.

¹³⁴ See European Commission, *Anti-dumping, Anti-subsidy, and Safeguard: Statistics Covering the First 4 Months of 2009* (Apr. 2009) at 35.

¹³⁵ “EU Imposes Tariffs on Imports of Seamless Pipes from China,” *Wall Street Journal*, (Jul. 31, 2009), available at <http://www.wsj.com>.

¹³⁶ “Chinese seamless pipemakers face stoppages,” *Metal Bulletin Daily Alerts* (May 12, 2009) (emphasis added), attached as Exhibit I-46.

¹³⁷ *Id.*

¹³⁸ “Decline in Pipe Consumption,” attached as Exhibit I-37. (emphasis added).

In addition, in November 2008, the Government of India placed imports of seamless pipes and tubes on its list of "Restricted" import products.¹³⁹ This means that industries wishing to import that product must obtain a license from the government.¹⁴⁰ This measure was specifically taken "to pre-empt dumping from China."¹⁴¹

iii. Conclusion

There can be no doubt that Chinese mills are burdened with unused capacity to make seamless pipe, and that they are in the midst of an effort that will substantially increase their capacity to make such pipe. It is also clear that other export markets will not absorb all – or even most – of the new exports that will result from China's unused and new capacity. Accordingly, this factor weighs heavily in favor of a finding that Chinese imports threaten the domestic industry with additional material injury.

c. The Significant Rate of Increase of the Volume and Market Penetration of Chinese Imports Supports a Finding of Threat of Material Injury

The Act provides that "a significant rate of increase of the volume or market penetration of imports of the subject merchandise" shall be considered in determining whether the domestic industry is threatened with material injury from the subject imports.¹⁴² In this case, both the volume and market penetration of Chinese imports increased [] over the period of investigation. As discussed above, from 2006 to 2008, imports from China increased from 158,128 NT in 2006 to 366,091 NT in 2008 – an increase of 207,963 NT or *132 percent*, in only two years.¹⁴³ The U.S.

¹³⁹ "Govt imposes curbs on import on some steel items," *Press Trust of India* (Nov. 25, 2008), attached as Exhibit I-47.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² 19 U.S.C. § 1677(7)(F)(i)(III) (2006).

¹⁴³ See Exhibit I-13.

market share of Chinese seamless pipe [

] ¹⁴⁴ Furthermore, as discussed above, Chinese mills had [

] the U.S. market as domestic mills during the first six months of 2009. ¹⁴⁵

The fact that Chinese imports have risen by such an extraordinary amount strongly indicates that such imports are quickly increasing their presence in this market. In the absence of affirmative determinations by the Commission in these cases, this trend will undoubtedly accelerate.

Accordingly, the rapid and sharp increase in imports since 2006 indicates “the likelihood of substantially increased imports” and supports a finding that the domestic industry is threatened with additional material injury.

d. Chinese Imports Are Entering at Prices that Are Likely to Have a Significant Depressing or Suppressing Effect on Domestic Prices, and Are Likely to Increase Demand for Further Imports

The Act provides that, in determining whether the domestic industry is threatened with material injury, the Commission should consider “whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports.” ¹⁴⁶ As discussed above, Chinese imports [] undersold the domestic like product throughout the period of investigation, and have otherwise had a depressing effect on domestic prices. This underselling is the reason why subject imports were able to increase so substantially in the first place. Thus, imports from China plainly are entering this market at prices that “are likely to increase demand for further imports.”

Moreover, while the subject imports [] undersold the domestic like product throughout the period of investigation, this underselling had the effect of suppressing prices of the

¹⁴⁴ See Exhibit I-20.

¹⁴⁵ See Exhibit I-21.

¹⁴⁶ 19 U.S.C. § 1677(7)(F)(i)(IV) (2006).

domestic like product in 2008. The prices being offered by the Chinese producers have fallen in 2009, as they struggle to obtain enough business to keep their mills running even at minimum levels in the face of falling demand, and these price decreases have accelerated so that the price of seamless pipe from China is now far below what it was a year ago. *Metal Bulletin* reported in March 2009 that Chinese seamless producers lowered their export prices by \$200 per MT.¹⁴⁷ Although *Metal Bulletin* said that some Chinese pipemakers believed that there "was little room for further drops in prices," because "the current prices are already near costs,"¹⁴⁸ this proved not to be the case. In April of this year, according to *Metal Bulletin*, "Chinese seamless pipemakers . . . {were} slashing export offers by up to \$150 per tonne in a desperate effort to get orders in a bleak market."¹⁴⁹ *Metal Bulletin* quoted a pipe mill official in Jiangsu Province as stating that "some pipemakers are even exporting at cost levels in the hope of keeping their facilities running and to avoid layoffs."¹⁵⁰ Chinese sources have observed the same phenomenon. One such source has said that, because of the declining international market demand for China's seamless pipe, "the competition among domestic prices of seamless steel pipe is extremely high. In order to sell, competition has lowered prices time and time again."¹⁵¹ In fact, as noted above [

] reports that [

].¹⁵²

¹⁴⁷ "Chinese seamless pipe export offers fall by \$200 per tonne," *Metal Bulletin* (Mar. 12, 2009), attached as Exhibit I-48.

¹⁴⁸ *Id.*

¹⁴⁹ "China's seamless pipemakers slash offers by up to \$150," *Metal Bulletin Daily Alerts* (Apr. 15, 2009), attached as Exhibit I-49.

¹⁵⁰ *Id.*

¹⁵¹ "Grim Outlook of Seamless Steel Pipe," attached as Exhibit I-45.

¹⁵² [], attached as Exhibit I-23.

Measures taken by the Chinese government have given Chinese producers the ability to drop prices even more. In an effort to encourage more exports of steel products, in June 2009 the Chinese government promulgated a policy increasing the value added tax rebate for certain seamless pipe from five percent to nine percent.¹⁵³

Furthermore, the evidence indicates that Chinese prices are likely to continue falling. In May 2009, [] stated that []¹⁵⁴

In short, there is every reason to believe that Chinese imports are entering, and will continue to enter, at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and that are likely to increase demand for further imports. Accordingly, this factor indicates that domestic producers are threatened by additional material injury.

e. Inventories of the Subject Merchandise Threaten the Domestic Industry with Additional Material Injury

The Act provides that the Commission must consider inventories of the subject merchandise as an indicator of the extent to which subject imports threaten additional material injury to the domestic industry.¹⁵⁵ In these investigations, although Petitioners do not have access to data regarding inventories of Chinese seamless, given the sharp rise in subject imports, such inventories are undoubtedly substantial.¹⁵⁶ Moreover, as discussed above, to evaluate fully the significance of inventories, the Commission must consider the fact that, no matter how much Chinese seamless

¹⁵³ See “Notification Regarding Further Increase the Export Tax Rebate on Some Products,” available at <http://szs.mof.gov.cn>, (Chinese language document) attached as Exhibit I-50.

¹⁵⁴ [], Exhibit I-51.

¹⁵⁵ 19 U.S.C. § 1677(7)(F)(i)(V).

¹⁵⁶ It should also be noted that inventories of Chinese seamless pipe may be held in the United States by Chinese mills, trading companies, importers, or distributors. The Commission may only be able to obtain partial information on these inventories during the preliminary phase of its investigations, given that it does not normally issue questionnaires to purchasers during this phase.

pipe is held in inventory, these imports are responsible for essentially *all* of the build-up in inventories that has occurred. To repeat, these inventories are []. If some of the imports from China were sold directly into the market, this caused inventories to increase – regardless of the make-up of such inventories. This is just as harmful to the domestic industry as if all of the Chinese product went into inventory, and was left to overhang the market.

f. The Potential for Product Shifting Is Significant

The Act provides that, in weighing the threat to the domestic industry, the Commission must consider “the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.”¹⁵⁷ Here, the potential for product-shifting is massive, and perhaps unprecedented among all of the cases that have ever come before the Commission.

Many Chinese producers of OCTG also make seamless pipe. As a result of antidumping and countervailing duty investigations of imports of OCTG from China by Commerce,¹⁵⁸ and the preliminary affirmative determinations by the Commission,¹⁵⁹ these producers recognize that their ability to export unfairly-traded OCTG to the United States may well be cut off for a long time into the future. Hence, these producers have an enormous incentive to ship unfairly-traded seamless pipe to the United States to fill the hole that the OCTG cases are creating in their ability to use their facilities to export OCTG to the United States.

The United States imported 1,768,177 NT of seamless OCTG from China last year.¹⁶⁰ If only a small portion of China's production of seamless OCTG for export to the United States was

¹⁵⁷ *Id.* at § 1677(7)(F)(i)(VI) (2006).

¹⁵⁸ *Certain Oil Country Tubular Goods from China*, 74 Fed. Reg. 17514 (Dep’t Commerce Apr. 15, 2009).

¹⁵⁹ *Oil Country Tubular Goods from China*, USITC Pub. 4081, Inv. Nos. 701-TA-431 and 731-TA-1159 (Prelim.) (June 2009).

¹⁶⁰ See “U.S. International Trade Commission Dataweb,” available at <http://www.usitc.gov>.

shifted to the production of seamless pipe for export to the United States – say, 25 percent – this would increase China's exports of seamless pipe to the United States by 442,044 NT¹⁶¹ or 121 percent.¹⁶² But, last year, U.S. apparent domestic consumption of seamless pipe was [],¹⁶³ and, at its current rate, will amount to [] NT in 2009.¹⁶⁴ Thus, even a small amount of product-shifting by Chinese seamless producers of OCTG would absolutely overwhelm the U.S. market for seamless pipe.

Recent developments in Canada will also encourage product shifting. In March 2008, Canada imposed anti-dumping and anti-subsidy duties on seamless carbon or alloy casing used in drilling for oil and gas.¹⁶⁵ And just last month, Canada initiated anti-dumping and anti-subsidy investigations into seamless and welded OCTG from China.¹⁶⁶ Given that seamless pipe is generally produced on the same machinery used to make OCTG, there can be no doubt that these developments will encourage Chinese producers to shift production to seamless pipe.

Given that Chinese producers have such strong incentives to shift production from OCTG to seamless pipe, it is clear that the potential for product shifting indicates that Chinese imports threaten the domestic industry with additional material injury.

¹⁶¹ $1,768,177 * 0.25 = 442,044$.

¹⁶² $442,044 / 366,091$ (the total number of U.S. imports of seamless pipe from China during 2008) = 1.21 = 121 percent.

¹⁶³ See Exhibit I-21.

¹⁶⁴ See Exhibit I-20 showing first half consumption of [] NT. []

¹⁶⁵ Canadian Border Services Agency, Statement of Reasons concerning the making of final determinations of dumping and subsidizing of Certain Seamless Carbon or Allow Steel Oil and Gas Well Casing from China (Feb. 22, 2008), attached as Exhibit I-52.

¹⁶⁶ Canadian Border Services Agency, Statement of Reasons concerning the initiation of investigations into the dumping and subsidizing of Certain Oil Country Tubular Goods from China (Sept. 8, 2009), attached as Exhibit I-53.

g. Chinese Imports Are Hindering the Existing Development and Production Efforts of the Domestic Industry

The Act provides that, in determining the threat to the domestic industry from subject merchandise, the Commission must consider “the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product.”¹⁶⁷ As discussed above, the subject imports have [], and have []

[] Continuing harm of this type will make it virtually impossible for domestic producers to adequately fund their development and production efforts.

h. Other Demonstrable Adverse Trends Indicate the Probability that There Is Likely to Be Material Injury by Reason of Imports of the Subject Merchandise

Finally, the statute provides that the Commission may consider “any other demonstrable adverse trends” indicating that subject imports are likely to cause material injury.¹⁶⁸ In these investigations, there are at least four such trends.

First, as discussed above, there is no question that the surge of Chinese imports into this market last year resulted in an [] inventory overhang that will weigh heavily on this market for some time to come. As a result of this inventory, domestic producers will undoubtedly lose significant sales volumes over the next few months. Furthermore, domestic producers will have to charge lower prices in order to compete with the seamless pipe that is already in inventory.

Second, the Chinese government believes that it must maintain economic growth – including export growth – in order to maintain social stability.¹⁶⁹ Consequently, it is likely to take all steps necessary to keep its seamless pipe mills running to the maximum extent possible.

¹⁶⁷ 19 U.S.C. § 1677(7)(F)(i)(VIII) (2006).

¹⁶⁸ *Id.* at § 1677(7)(F)(i)(IX) (2006).

Third, as shown above, the Chinese government is responding to the current economic crisis by promoting exports, including exports of tubular goods. These trends certainly show that subject imports are likely to cause additional material injury.

Finally, China is reacting to the global economic crisis in a manner that is completely different than every other significant steel-producing country in the world. In the first half of this year, Chinese steel production continued to grow, while all other significant steel producing countries cut back their production drastically.¹⁷⁰

5. Conclusion

Given the combination of increasing production capacity of seamless pipe in China, the lack of other markets to absorb this significant volume, the enormous incentive for Chinese seamless OCTG producers to engage in product-shifting to seamless pipe, and the Chinese government's encouragement of seamless pipe exports, Chinese producers will certainly export large volumes of seamless pipe to the United States in the absence of trade relief. Given the fact that domestic production has [], there can be no question that further imports from China would have disastrous consequences. In short, there is not just a likelihood – there is a near certainty – that the Chinese industry will cause substantial additional harm to the U.S. industry unless antidumping and countervailing duty measures are imposed.

(cont'd from previous page)

¹⁶⁹ “China job situation remains ‘grave’ – minister,” Reuters (Sept. 9, 2009), attached as Exhibit I-54.

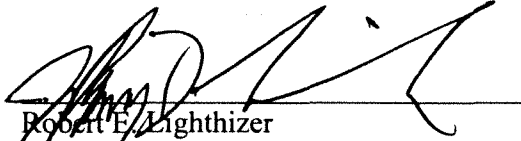
¹⁷⁰ See Exhibit I-55 (showing that while crude steel production worldwide fell 21.3 percent from the first half of 2008 to the first half of 2009, Chinese production of crude steel over the same period increased by 1.2 percent).

Public Version


D. Conclusion

All statutory factors support a finding that subject imports of seamless pipe have caused material injury to the domestic industry. Moreover, the domestic industry is threatened with additional material injury from subject imports. Accordingly, the Commission should make an affirmative determination in these preliminary investigations.

Respectfully submitted,



Robert E. Lighthizer
James C. Hecht
Jeffrey D. Gerrish
Stephen P. Vaughn
Stephen J. Narkin
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7000
*Counsel to United States Steel
Corporation*



Roger B. Schagrin
SCHAGRIN ASSOCIATES
900 7th St. N.W. Suite 500
Washington, DC 20001
(202) 223-1700
Counsel to V&M Star L.P.